

**APPENDIX 30.2: COURT-SPECIFIC RULES CONCERNING PARTITION OF  
COMMUNITY PROPERTY**

COURT	PARISHES	<u>COURT-SPECIFIC RULES CONCERNING PARTITION OF COMMUNITY PROPERTY</u>
10 <sup>th</sup> J.D.C.	Natchitoches Parish	<p>Effective, immediately, in all property settlement cases to be tried in this Court, all counsel shall file, at least 48 hours before the day of trial, one stipulation signed by the person or persons they represent and by counsel, setting forth, in detail, the following information:</p> <ol style="list-style-type: none"> <li>(1) An agreed list of personal and real marital property, both tangible and intangible, acquired by either or both spouses during the marriage;</li> <li>(2) An agreed list of separate property, both tangible and intangible, acquired before marriage or by gift, bequest, descent or inheritance;</li> <li>(3) All other property owned by the parties whose character marital or separate--is to be decided by the Court after receipt of proof.</li> </ol> <p>Failure to comply with this rule will result in the trial being continued until the rule is fully met.</p>
15 <sup>th</sup> J.D.C.	Acadia, Lafayette, and Vermilion Parishes  Amended October 30, 2015, effective October 1, 2015. Amended November 20, 2016, effective January 1, 2017.	<p>All partitions shall be filed in the same suit number of the divorce and/or separation of property action between the same parties. However, if the divorce and/or separation proceeding was pending in a Family Docket division and the case has been abandoned, the case shall be reallocated to a non-Family Docket division of the court if there are no longer any minor children born of, adopted or legitimated by the marriage.</p> <p>Upon filing of a traversal of the descriptive lists as set forth in La. R.S. 9:2801(2), either party may request that the matter be set for trial of the traverses and/or on the merits. All trials of the traverses and/or all partition trials shall be fixed on a merits docket by written motion and shall be scheduled in accordance with the 15<sup>th</sup> JDC rules in Appendices 24.7A and 24.7B. In no event shall trials of the traverses or partition trials be fixed in Divisions “H” and “M” between June 1 and August 15 of each year. The trial of the traverses and/or the partition trial <b>shall not</b> be fixed unless both parties have filed a detailed descriptive list into the record of the proceeding in accordance with R.S. 9:2801(1)(a), or unless a detailed descriptive list has been deemed to constitute a judicial determination of the community assets and liabilities by the Court in accordance with La. R.S. 9:2801(1)(a), or if a rule to deem a detailed descriptive list to constitute a judicial determination of the community is filed simultaneously with and fixed for hearing with the partition trial. The motion to fix for trial shall contain a certification signed by the party or counsel or record to this effect. The Court may, on the motion of either party, or on its own motion, require a separate hearing on contested issues of law or fact or on the issues of the separate or community nature of assets or obligations and/or the valuation of assets, liabilities or reimbursements, prior to a trial on the merits. Decisions on questions of law or fact shall be considered preliminary findings interlocutory in</p>

nature for appeal purposes. No appeal may be taken until final judgment adjudicating all community property issues heard pursuant to La. R.S. 9:2801 *et seq.* is signed by the Court.

Upon receiving a motion to fix a partition matter on the merits, the Clerk shall immediately forward to all counsel of record and to all unrepresented parties a notice of the trial date of the suit, together with the following scheduling order form:

**SCHEDULING ORDER FOR COMMUNITY PROPERTY PARTITIONS**

**DEADLINE:** **FOR:**

75 days prior to trial date

**1. EXPERT WITNESSES**

Each part shall file into the record and provide opposing counsel with a list of the name, address, area of testimony and expertise of each expert witness and shall provide a written report prepared and signed by the expert which shall comply with C.C.P. art. 1425(B) along with a list of qualifications of the witness, including all publications authored by the witness within the preceding ten years, the compensation to be paid the witness and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. Any party may petition the court to modify this requirement, upon good showing, which petition must be filed 10 days prior to the deadline for providing this information.

If the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, the information listed above must be furnished within 30 days after the disclosure made by the other party in compliance with C.C.P. art. 1425(C).

60 days prior to trial date

**2. (a) EXCHANGE OF EXPERT REPORTS**

**(b) EXCHANGE OF SPECIFIC WITNESS AND EXHIBIT LISTS**

(i) Each party shall list the name, address and area of testimony of each witness. The witness list shall include rebuttal witnesses, reasonably anticipated.

(ii) The party listing the witness

		<p>bears a responsibility of producing that witness at trial. Opposing parties may call the said witness to testify.</p> <p>(iii) Each party shall list separately and with particularity each exhibit.</p> <p>(iv) Should a party fail to introduce its listed exhibit, an opposing attorney may introduce the exhibit.</p> <p>(v) Absent good cause, no witness or exhibits shall be allowed which are not properly identified and listed.</p> <p>30 days prior to trial</p> <p>3. (a) DISCOVERY COMPLETED</p> <p>(b) DISPOSITIVE MOTIONS</p> <p>(c) FINAL AMENDMENTS TO DDL</p> <p>(d) PRETRIAL CONFERENCES</p> <p>If a pre-trial conference is desired, any party may contact the judge's office in order to request a conference the scheduling of which shall be at the Judge's discretion. If a conference is scheduled, trial counsel for each party shall attend the conference. No substitutions of counsel will be allowed without prior approval by the court. The purpose of the conference shall be to insure that the case is ready for trial and to discuss the nature and basis of the claims and defenses and to make a good faith effort to narrow the issues, reach joint stipulations to dispose of uncontested matters, discuss and attempt to resolve any matter concerning the authenticity or admissibility of exhibits produced in response to discovery, and attempt a settlement of the matter.</p> <p>4. In the event a pre-trial conference is</p>
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		<p>scheduled, counsel for each party shall file proposed pre-trial stipulations which shall be due three (3) working days prior to the pre-trial conference. A copy shall be delivered to the home office of the trial judge.</p> <p>5. EXPERT DEPOSITIONS COMPLETE</p> <p>6. MOTIONS IN LIMINE</p> <p>7. SETTLEMENT NEGOTIATIONS</p> <p>All counsel shall confer personally at least ten days prior to trial in order to confect stipulations, discuss settlement of the case and prepare a combined detailed descriptive list which sets forth all community assets, reimbursement claims, community obligation claims and separate property claims, as well as the nature of the disputes between the parties, in such a manner so that the Court can make a side by side comparison of each claim. An example of a combined detailed descriptive list may be found in Appendices 30.0C and 30.0D of Title IV, Rules for District Courts</p> <p>8. PRETRIAL MEMORANDUM</p> <p>Each party shall prepare a pre-trial memorandum which shall include an estimate of the length of the trial. The original memorandum shall be delivered to the home office of the trial judge. Copies shall be provided to all counsel.</p> <p>9. MARK AND EXCHANGE EXHIBITS AND DEMONSTRATIVE AIDS</p> <p>10. EDITING OF TRIAL DEPOSITIONS AND FILING OBJECTIONS THERETO</p> <p>11. SUBMIT TRIAL DEPOSITIONS AND A COPY OF THE COMBINED DETAILED DESCRIPTIVE LIST TO THE</p>
	Ten (10) days prior to trial	
	Eight (8) days prior to trial	

		<p style="text-align: center;">JUDGE'S CHAMBERS</p> <p style="text-align: center;">SUMMARY PROCEEDINGS</p> <p>The trial of the traverses and the trial on the merits shall be set on the Court's regular merits docket.</p> <p style="text-align: center;">FORM OF JUDGMENT</p> <p>It shall be the responsibility of any party who is an employee participant in a benefit plan in which the community possesses an interest to obtain all available forms and other necessary information from the plan administrator which shall be submitted to the Court and to opposing counsel, or the opposing party if unrepresented, so that a qualified domestic relations (QDRO) order can be prepared as directed by the Court.</p>
<p>18<sup>th</sup> J.D.C.</p>	<p>Iberville, Pointe Coupee, and West Baton Rouge Parishes</p>	<p style="text-align: center;">PARTITION OF COMMUNITY PROPERTY</p> <p>Section A. Commencement of Proceedings.</p> <p>All partitions shall be filed in the same suit number of the divorce and/or separation of property action between the same parties. All partition actions, petitions shall include a description of the claims the party seeks to have decided by the Court, and shall comply in all other respects with La. R. S. 9:2801.</p> <p>Section B. Sworn Detailed Descriptive List.</p> <p>1. In a case in which the first pleading requesting a partition contains a sworn detailed descriptive list, that pleading shall include an order adopted by the court requiring that:</p> <ul style="list-style-type: none"> <li>(a). The opposing party files a sworn detailed descriptive list within 45 days of service on opposing party of the first pleading requesting a partition; and</li> <li>(b). Within 60 days of the date of the last filed sworn detailed descriptive</li> </ul> <p>2. In a case in which the first pleading does not contain a sworn detailed descriptive list, it shall contain an order requiring that:</p> <ul style="list-style-type: none"> <li>(a). Both parties file sworn detailed descriptive lists within 45 days of service on the opposing party of the first pleading requesting a partition; and</li> <li>(b). Within 60 days of the date of the last filed sworn detailed descriptive list each party shall traverse or concur in the list of the other party.</li> </ul> <p>3. A sworn detailed descriptive list shall contain a section setting out a proposed monetary value (if reasonably within the knowledge of the affiant), or alternatively, the value at which affiant would be willing to buy or sell each asset. (See Form H)</p> <p>4. If a sworn detailed descriptive list is filed before that of the respondent, the</p>

respondent's sworn detailed descriptive list shall follow the order and form of the first filed sworn detailed descriptive list, and shall state concurrence or traversals as to each item and the reason for traversal. Additions for assets and debts, reimbursements or other claims not listed in the first detailed descriptive list filed can be made.

5. Respondent's sworn detailed descriptive list shall be filed in conformity with the court order no later than 45 days from service of the original pleading requesting partition. No *ex parte* extensions will be granted, except as provided in Rule 33. All requests for extension shall be by contradictory motion, or with consent of all counsel.

#### Section C. Pretrial Procedures

1. Either party may request a pre-trial conference by submission of a consolidation of the sworn detailed descriptive lists, (similar to Form H) and a statement of contested issues of fact and law. The parties shall jointly submit a proposed pretrial order. (See Form I) Alternatively, one party may request from the appropriate judge, a status conference or an order compelling pre-trial inserts from the opposing party.

2. At the pre-trial conference, the Court shall, if appropriate, fix a date for a hearing on the classifications of issues; and in all cases, shall fix a date for a submission of a completed pretrial order; and shall fix a date for trial on the merits. If appropriate, the Court may also establish a deadline for discovery, fix a date for filing pre-trial memoranda accompanied by a party's proposed allocation of assets and liabilities, appoint experts, and render any other appropriate order. (See Attached Revised Case Management Form)

#### Section D. Extensions And Continuances.

See Rule 33

#### Section E. Sanctions.

See Rule 34

#### Section F. Summary Proceedings

The Court may, on motion of either party, or on its own motion, require a separate hearing on contested issues of law prior to a trial on the issues of valuation, allocation of assets, liabilities and reimbursements. Decisions on questions of law shall be considered preliminary findings in nature for appeal purposes. No appeal may be taken until the final judgment covering all the issues is signed. See Louisiana Code of Civil Procedure Article 1915.

#### Section G. Alternatives For Resolution Of Disposition Of Assets

The parties may choose, or the court on its own motion, may order one or more of the following four alternatives:

		<p>1. Auction to be conducted using the bid list form; (See Form K).</p> <p>2. Alternative Selection: The compiled lists, as described above shall be divided randomly or by process agreed upon by the parties according to category containing the name/description of an item from the first category. That party shall then set a price for the first item, alternating thereafter. The other party has the option to buy or refuse the item at that price. If the party refuses, then the party, who drew the item and set the price, must purchase the property at that price. The parties then alternate drawing from the category until the disposition of all items in that category. The parties shall continue in this process for all categories.</p> <p>3. Appraisal Preliminary to Partition: Within thirty (30) days of submission of a joint written motion signed by either parties or their counsel, the Court shall appoint such appraiser(s) as, in its discretion, are required to determine the fair market value of both movables and/or immovables. Fees and costs associated with the work of the appraiser(s) shall be taxed as costs of court and shall be considered in the final accounting. Both parties shall share equally the fee and costs of appraisal, except for those instances in which it can be shown at a contradictory hearing within ten (10) days of the filing of the appraisers' report that failure to cooperate increased the fees and costs of the appraisal(s). When there are liquid assets of the community, the court may order the fees and costs of the appraisal(s) to be paid from those liquid assets prior to a final accounting. At the time of the appointment of the appraiser(s), the court may order the parties, to deposit in advance estimated fees and costs into the registry of the court; and</p> <p>4. Dispute Resolution: The judge may appoint an expert pursuant to La. R.S. 9:2801(3). The expert chosen by the trial judge shall, absent an agreement between the parties, determine the method of division of assets and reimbursement of credits between the parties. The expert shall meet with counsel for the parties (or parties in proper person) to arrange a date and location for the division to occur. The dispute resolution agreement arrange a date and location for the division to occur. The dispute resolution agreement shall be signed by both parties and their counsel and submitted to the trial judge for signature.</p>
<p>Family Court for the Parish of East Baton Rouge</p>	<p>East Baton Rouge Parish</p>	<p style="text-align: center;"><b>AUCTION OF MOVABLES</b></p> <p>1. The parties may request, or the Court on its own motion may order the parties and their attorneys to participate in an auction of movable items as part of a community property partition.</p> <p>2. The movable auction may be conducted by the judge's staff attorney to allocate all movable items on the joint detailed descriptive list of the parties. The parties will have alternate turns during the auction, and the first turn shall be determined by coin toss or other random means. On his turn, one of the parties will set the value of a listed item, and the other party may either accept or reject the item at that value. The parties will continue alternating their turns until all movables are allocated.</p>

		<p>3. After all items have been allocated, the items accepted and rejected by the parties shall be added together. Each party shall add the value of all items he accepted and all of the items the other party rejected to his total. After the sum for each of the parties is calculated, the party with the higher sum shall owe an equalizing payment to the party with the lower sum. The equalizing sum will be in an amount so that both parties are left with equal monetary values.</p>
20 <sup>th</sup> J.D.C.	East Feliciana and West Feliciana	<p>Subject to rules of court all rules, trials, motions and exceptions shall be heard on rule days, provided, however, any rule or trial requiring extended testimony may be scheduled by the court on any other civil day in the discretion of the court.</p> <p>All parties seeking partition of community property shall file a sworn detailed descriptive list of all community property with the fair market value and location of each asset, and all community liabilities. The list shall indicate whether community ownership of the property is disputed or undisputed or if community liabilities are disputed.</p> <p>The opposing party who files a traverse of the sworn descriptive list of the community property shall list all items of community property and shall follow the same format, listing value and location of each asset and shall indicate whether he or she concurs with or traverses that item.</p>
22 <sup>nd</sup> J.D.C.	St. Tammany and Washington	<p>A. Subsequent to the filing of a detailed descriptive list on behalf of each party, and at least 7 days before the HOC, the parties shall confer and prepare a joint detailed descriptive list (<i>See</i> Appendices 30.0C and 30.0D). The joint list shall be filed in accordance with the Partition Case Management Schedule issued by the court.</p> <p>B. At the conference with the Court’s designated Hearing Officer, the Hearing Officer shall have the authority to make a recommendation to the trial judge regarding the appointment of an expert and/or special master, the need to continue the trial date, or other such appropriate recommendations.</p> <p>C. The parties and/or their counsel shall comply with all provisions of the Partition Case Management Schedule and pre-trial order. Failure to comply may result in sanctions that include the rejection of non-conforming pleadings, the loss of the trial date, the striking of witnesses and/or exhibits, and other sanctions as deemed appropriate for the administration of justice by the trial judge.</p>
24 <sup>th</sup> J.D.C.	Jefferson Parish	<p style="text-align: center;"><b>COMMENCEMENT OF PARTITION PROCEEDINGS</b></p> <p>A. All partition actions shall be commenced by petition, supplemental petition or reconventional demand and shall include a description of the claims the party seeks to have decided by the court, and shall comply in all other respects with La. R.S. 9:2801. All partitions shall be filed in the same suit number of the divorce and/or separation of property action between the same parties and allotted to a district judge, domestic commissioner and domestic hearing officer in conformity with the rules set forth in Appendix 32.0B.</p> <p>B. Community property issues shall be discussed at the time of the initial hearing officer</p>



conference.

C. At the request of either party, or at the time of filing a motion to set the partition for trial, or on order of the court, the partition matter shall be set for a hearing officer conference within thirty (30) days.

D. During the hearing officer conference, the hearing officer may recommend the appointment of experts and prepare a suggested scheduling order in conformity with the rules set forth in Appendix 32.0B.

E. The written recommendation of the hearing officer concerning partition of property shall contain all of the following:

1. A statement of the findings of fact of the hearing officer;
2. Recommendations regarding experts;
3. A proposed scheduling order setting a date for a follow-up conference with the hearing officer to exchange and review the sworn descriptive lists and expert reports. The scheduling order shall contain a date for a follow-up hearing date before the district judge and/or a trial date, and any and all pertinent cut-off dates; and
4. The proposed scheduling order shall be signed by the domestic commissioner. Objections to the proposed scheduling order shall be filed in accordance with Appendix 32.0B.

#### SWORN DETAILED DESCRIPTIVE LIST

Sworn detailed descriptive lists shall be filed, traversed or concurred with in accordance with La. R.S. 9:2801 and Rule 30.0.

A rule to show cause why any time period should not be extended shall be heard by the domestic commissioner.

#### PRE-TRIAL PROCEDURES

A. At the discretion of the district judge, a pre-trial conference may be scheduled before the district judge not less than thirty (30) days prior to trial.

B. Except for good cause shown, at least fourteen (14) days prior to the pre-trial conference with the district judge, counsel and/or the parties shall meet jointly, in person, to prepare a joint pre-trial order. At the joint meeting, counsel and/or the parties in attendance shall make a good faith effort to narrow the issues, reach joint stipulations to dispose of uncontested matters, discuss and attempt to resolve any matters concerning the authenticity or admissibility of exhibits produced in response to discovery, and attempt a settlement of the matter.

1. All attorneys of record are responsible for arranging the joint meeting at a mutually agreeable time and location and are responsible for personally attending the meeting.
2. At the joint meeting, counsel and/or the parties are to prepare a joint pre-trial order substantially in compliance with the hearing officer scheduling order.
3. The parties shall deliver the completed pre-trial order to the district judge at

least three (3) working days before the pre-trial conference.

4. No attorney shall be compelled to meet with an unrepresented party.

C. It shall be the responsibility of counsel representing any party, and/or parties, if unrepresented, who is an employee participant in a benefit plan in which the community possesses an interest to obtain all available forms and other necessary information from the plan administrator before the joint meeting of counsel and/or parties which shall be submitted to the court and to opposing counsel, or the opposing party if unrepresented, so that a Qualified Domestic Relations Order (QDRO) can be prepared as directed by the court.

D. The court may, on its own motion, or on motion of either party, require a separate hearing, prior to a trial on the merits, on:

1. contested issues of law or fact;
2. issues of the separate or community nature of assets or obligations;
3. valuation of assets, liabilities or reimbursements.

Decisions on questions of law or fact shall be considered preliminary findings for appeal purposes. No appeal may be taken until the final judgment is signed covering all community property issues heard pursuant to La. R.S. 9:2801 et seq. See La. C.C.P. Art. 1915.

#### EXTENSIONS AND CONTINUANCES

Except for emergencies, any ex parte motion, including, but not limited to, a motion for a continuance, shall be in writing and shall set out in detail the effort of the applicant to inform opposing counsel, or in the case of an unrepresented individual, the opposing litigant, of the content of the motion and the date and time the motion will be presented to the court. Except for unusual circumstances, the court shall hear from opposing counsel or litigant before acting on an ex parte motion.

#### SANCTIONS

Failure by an attorney or unrepresented litigant to comply with the rules in this Appendix 30.2, La. R. S. 9:2801 or any other rules of the Code of Civil Procedure relating to partitions may result in sanctions.

#### SUMMARY PROCEEDINGS

The trial of the traverses of the sworn descriptive list may be by summary procedure. The court, in its discretion, may by ordinary procedure try and determine at one hearing all issues, including those raised in the traverses. La. R.S. 9:2801.

#### ALTERNATIVES FOR RESOLUTION OF DISPOSITION OF ASSETS

The parties may choose, or the court on its own motion, may order:

A. An auction to be conducted using the bid list form.

B. Alternative Selection: The compiled lists shall be divided by placing each item on a separate slip of paper with each grouped according to category. The first party shall draw blind, a slip containing the name/description of an item from the first category. That

party shall then set a price for the item drawn. Said category and price shall be within the parameters of the two values contained on the sworn detailed descriptive list given to the other party who has the option to buy or refuse the item at that price. If the party refuses, then the party who drew the item and set the price, must purchase the property at that price. The parties then alternate drawing from the category until the disposition of all items in that category. The parties shall continue in this process for all categories.

C. Appraisal Preliminary to Partition: Within thirty (30) days of submission of a joint written motion signed by both parties or their counsel, the court shall appoint such appraiser(s) as, in its discretion, are required to determine the fair market value of both movables and/or immovables. Fees and costs associated with the work of the appraiser(s) shall be taxed as costs of court and shall be considered in the final accounting. As ordered by the court, the parties shall pay the fee and costs of appraisal. When there are liquid assets of the community, the court may order the fees and costs of the appraisal(s) to be paid from those liquid assets prior to a final accounting. At the time of the appointment of the appraiser(s), the court may order the parties, to deposit, into the registry of the court, in advance, estimated fees and costs.

D. Dispute Resolution: The judge may appoint an expert pursuant to La. R.S. 9:2801 (3), La. C.C.P. Art. 192 and La. C.E. Art. 706.

E. By agreement of the parties, the court may appoint a mediator to address community property issues.

F. The parties may also choose to address the community property issues through the collaborative process. *See* Appendix 31.3.

#### FORM OF JUDGMENT

A. All judgments submitted for signature shall contain the name of the judge, the name, current mailing address, telephone number, and bar number of all counsel of record, or the name, current mailing address, and telephone number of the parties if not represented by counsel, whether the judgment is partial, final or interlocutory, and whether by default or after a trial or contested hearing.

B. In property partition cases:

1. It shall be the responsibility of counsel, and/or parties, if unrepresented, to prepare and submit a QDRO and/or other plans for employees' benefits, along with the judgment to be signed by the trial judge if necessary for the release of retirement funds.
2. All property partition judgments shall contain appropriate conveyance language.

