

SUPREME COURT OF LOUISIANA

ORDER

Acting under the authority of Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, the Court hereby adopts amendments and additions, annexed hereto as Attachment A and incorporated herein, to the Rules for Louisiana District Courts, duly presented to this Court by the Supreme Court Committee on District Court Rules,

This Order shall become effective January 1, 2009, and shall remain in full force and effect thereafter, until amended or changed under the authority of future orders of this Court.

New Orleans, Louisiana, this _____ day of _____, 2008.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice

ATTACHMENT A

1. Rule 1.1 Subsections (f) and (g) Application of Rules and Appendices, Citation Form

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

(g) 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.

Adopted effective April 1, 2002. Amended June 2, 2003, effective July 1, 2003; Amended November 3, 2008, effective January 1, 2009.

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2. Rule 1.3 Amendment of Rules and Updating Appendices

(a) Proposed rules or amendments to existing Louisiana Rules for District Courts in Titles I through III and Title V or to the numbering systems in ~~Titles IV and~~ Title IV 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 Louisiana Rules for District Courts organized according to the numbering systems in Titles IV ~~and V~~ must be approved by the district court, criminal court, or 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 the signing of the Order.

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Adopted effective April 1, 2002. Amended Nov. 3, 2004, effective Jan. 1, 2005; Amended November 3, 2008, effective January 1, 2009.

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3. Rule 9.5 Court's Signature; Circulation of Proposed Judgment

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If presented later, the responsible attorney or the unrepresented party 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.

The page of the judgment or order containing the judge's signature line must reflect the docket number and title(s) of the pleading(s) at issue.

This rule does not apply to default judgments.

Adopted effective April 1, 2002. Amended June 2, 2003, effective July 1, 2003; amended Oct. 29, 2003, effective Jan. 4, 2004; amended Nov. 3, 2004, effective Jan. 1, 2005; amended November 3, 2008, effective January 1, 2009

4. 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.

Websites for district courts and Clerks of Court, where available, are also listed in Appendix 4.

Adopted effective April 1, 2002. Amended November 3, 2008, effective January 1, 2009.

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5. 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. Attached as Appendix 5C is a form that may be used as an interpreter's oath.

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Adopted effective April 1, 2002. Amended November 3, 2008, effective January 1, 2009.

6. 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.~~

All pleadings, briefs and memoranda must be presented to the Clerk of Court for allotment and filing before presentation to the assigned judge.

Exceptions to this rule are noted on Appendix 7.

Adopted effective April 1, 2002. Amended June 2, 2003; effective July 1, 2003;
Amended November 3, 2008, effective January 1, 2009.

7. 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 and any opposition thereto must 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.

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Adopted effective April 1, 2002. Amended June 2, 2003, effective July 1, 2003; amended Oct. 29, 2003, effective Jan. 4, 2004; amended November 3, 2008, effective January 1, 2009.

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8. 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 effective April 1, 2002. Amended June 2, 2003, effective July 1, 2003; amended November 3, 2008, effective January 1, 2009.

Comments

(a) La. Code Civ. Proc. art. 1734 provides that the jury bond must be filed no later than ~~30~~ 60 days before trial. La. Code Civ. Proc. art. 1734.1 provides that the court may order, in lieu of the bond required in Article 1734, that a cash deposit for costs be made no later than 30 days prior to trial. 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 in Orleans Parish at \$16.00 per day. 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~~ must be paid \$25.00 per day and that they should be reimbursed at the-a mileage rate paid to state officials, which is not less than \$.16 a mile and not more than the rate in effect for state officials.

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

9. Rule 13.0, et seq. Civil Litigation Filed by Inmates

Rule 13.0 Petitions Filed by Offenders/Prisoners

(a) Pro se offender/prisoner litigants in the custody of the Department of Corrections must use the form IJR-1, "Petition for Judicial Review," available from the Department and the Clerk of Court for East Baton Rouge Parish to apply for Review of an Administrative Decision, excluding administrative decisions on delictual actions for injury or damages. See Appendix 9A. Pursuant to La. R.S. 15:1177, venue is proper only in the 19th Judicial District Court for prisoners/offenders in the custody or under the supervision of the Department of Corrections, unless the suit is based on delictual actions, in which case exclusive venue is set forth in La. R.S. 15:1184.

(b) Delictual actions for injury or damages filed by prisoner/offenders, whether in the custody of the Department of Corrections or the Sheriff, shall be filed in the original jurisdiction of a district court. Venue is addressed in La. R.S. 15.1184F.

(c) Referral of Matters Filed in the 19th Judicial District Court to Commissioners

(1) Once one of the following is filed and randomly allotted to a section of court in compliance with the law, it shall be alternately referred to a commissioner for initial screening and further action in accordance with law:

(a) Administrative Appeals filed by an offender/prisoner, as defined in La. R.S. 15:1174, et seq. and La. R.S. 15:1181, et seq., against the Department of Corrections, including Petitions for judicial review (appeal) of an administrative decision, including but not limited to Prison Administrative Remedy Requests, Disciplinary Board Appeals, Lost Property Claims (that do not involve tortious

conduct), Time Calculation or Good Time Complaints, even if urged as a Writ of Habeas Corpus, Duty Status Complaints, or any other complaints involving an internal prison grievance, and Parole Revocation Appeals;

(b) Ordinary civil suits by offenders/prisoners as defined in La. R.S.

15:1181 of the Prison Litigation Reform Act filed against the Sheriff of East Baton Rouge or any employee thereof, when based on a cause of action that arose while the Plaintiff was incarcerated or in the custody of the Sheriff of East Baton Rouge or any employee thereof. Ordinary suits that require a jury trial and allotted to a commissioner will be referred back to the allotted judge for further action/proceedings;

(c) Applications for Post-Conviction Relief except Post-Conviction Relief Applications involving first degree murder convictions;

(d) Any other pleading/complaint filed by an offender/prisoner that is specifically referred in writing by a judge to a commissioner.

(d) Suits Subject to La. R.S. 15:1171-1179 (Corrections Administrative Remedy Procedure Act) or La. R.S. 15:1181-1191 (Prison Litigation Reform Act):

(1) Any offender/prisoner, as defined in La. R.S. 15:1171-1179 (Corrections Administrative Remedy Procedure Act), or La. R.S. 15:1181-1191 (Prison Litigation Reform Act), must initiate and exhaust the Administrative Remedy Procedure established by the Department of Corrections or the Parish Sheriff, if available, before filing an appeal or suit subject to the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, et seq., and/or the Prison Litigation Reform Act, La. R.S. 15:1181, et seq., whichever is applicable.

(2) To show compliance with the law and this Rule, any suit filed by an offender/prisoner subject to La. R.S. 15:1171, et seq., or La. R.S. 15:1181, et seq., must have attached to the appeal or suit, a copy of the final agency decision complained of.

(3) The provision of this Section shall not apply to:

(a) Appeals of Judicial Decisions;

(b) Pending Criminal matters;

(c) Applications for Post Conviction Relief or Habeas Corpus

Applications attacking the petitioner's conviction.

- (e) Ordinary Proceedings Filed Pro Se by Offender/Prisoners Pursuant to La. R.S. 15:1181, et seq. (Prison Litigation Reform Act):
- (1) Exhaustion of Administrative Remedies, when available, is required prior to filing suit in the parish of proper venue. See La. R.S. 15:1177C (Corrections Administrative Remedy Procedure Act), and La. R.S. 15:1181 - 1191 (Prison Litigation Reform Act).
 - (2) When an offender/prisoner files a pro se complaint/petition that is not subject to judicial review under La. R.S. 15:1177 the inmate is required to follow the procedures and law regarding civil complaints set forth in the Louisiana Code of Civil Procedure (La. C.C.P.), the Louisiana Civil Code (La. C.C.) and any other applicable law, as well as the Civil Rules of the court of proper venue, not in conflict with the Rules of this Section.
 - (3) Any ordinary petition filed pursuant to Louisiana Rules for District Courts (La. Dist. Ct. R.) Rule 9.0 must specifically comply with La. C.C.P. arts. 851-893 and must set forth specific facts to support the elements of each claim pursued and must designate a physical address, not a post office box, for each party, sufficient for service of pleadings.
 - (4) Discovery Limitations:
 - (a) No discovery may be filed until after the defendant's first appearance (filing of an answer or motion) in order to allow the Court to screen the petition, consider the Petitioner's "strike" status, set the costs due, consider the mandatory venue and to order service on the defendants or dismiss the suit in accordance with the Prison Litigation Reform Act, La. R.S. 15:1181, et seq.
 - (b) All discovery requests in prisoner suits must be filed into the court record by sending a copy to the clerk of court, in addition to being sent by mail to the opposing party or counsel therefore, and must include a certificate of compliance with this rule.
 - (c) Once the defendant has made an appearance (filing of an answer or motion), discovery in prisoner suits is governed by the La. C.C.P., La. C.C., La. Dist. Ct. R. and other applicable Louisiana law, subject to the restrictions set forth in this section and pursuant to Prison Litigation Reform Act, La. R.S. 15:1181, et seq.
 - (5) Any pretrial motion, rule, exception, etc., must have attached to it a memorandum of authorities in support thereof which shall include a

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declaration that a copy of same has been provided to the opposing party or his counsel at a specific address. Opposing briefs may be filed but must be received in the office of the assigned judge or commissioner, as the case may be, at least five (5) working days prior to the date of any hearing set. No motion, rule, exception, etc. shall be assigned for hearing until the above required memorandum of authorities, and the name and address of opposing counsel have been furnished to the judge or commissioner hearing the matter.

(6) The following are limitations on trial:

In accordance with statutory law, offenders/prisoners filing *In Forma Pauperis* may subpoena up to six (6) witnesses for trial, but only after a proper pretrial order has been completed by the plaintiff and approved by the court as required hereinafter. For additional witnesses, see La. C.C.P. art. 5185A(2)(a).

(7) The following are rules on pretrial procedures and orders:

(a) Unless otherwise provided herein or by law, no suit requiring a trial on the merits may be assigned a trial date except at pretrial conference. Any party desiring to assign a case for trial shall, after all issues have been joined, all contemplated motions, rules, exceptions, interrogatories, requests for admissions, or other discovery proceedings filed, make a written request for pretrial conference to the judge or commissioner to which the case has been assigned.

(b) The party requesting the pretrial conference shall certify in his request that all pretrial matters have been completed and that the matter is ready for trial. If the party requesting the conference has any motions/exceptions, discovery or other pretrial matters outstanding, such pretrial matters will be considered waived withdrawn once a pretrial conference is waived or withdrawn once a pretrial conference is requested in writing.

or

(c) The pro se prisoner requesting a pretrial conference must complete and attach to his request for a pretrial conference, his completed

portion of the Pro Se Prisoner-Plaintiff's Portion of the Pretrial Order, Appendix 9B hereto, and certify that he has provided opposing counsel with a copy of the completed Pretrial Order at a specific address. See Appendix 9C for Defendant's Portion of the Pretrial Order.

(8) Jury Trial Requests:

Any request for a jury trial and bond must be made in accordance with the requirements of the Louisiana Code of Civil Procedure and Louisiana District Court Rule 12.

Adopted effective April 1, 2002. Amended Nov. 3, 2004, effective Jan. 1, 2005; amended November 3, 2008, effective January 1, 2009.

Rule 13.1 Declaration of Inmate Counsel

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Rule 13.2 *In Forma Pauperis* Inmate Suits

(a) La. R.S. 15:1186 governs *in forma pauperis* motions in actions filed pursuant to La. R.S. 15:1171, et seq. (Corrections Administrative Remedy Procedure Act) ("CARP") and La. R.S. 15:1181, et seq. (Prison Litigation Reform Act) ("PLRA").

(b) In ordinary civil suits governed by the PLRA, pursuant to La. R.S. 15:1186B(2), the order granting a prisoner's request to proceed *in forma pauperis* automatically stays all proceedings, including any service of process, until all costs of court or fees due the clerk by the prisoner are paid, and further, if prisoner does not pay the full court costs or fees within three years from when incurred, the suit shall be considered abandoned and dismissed.

(c) Prisoners may not bring a civil action, or appeal a judgment in a civil action or proceeding, *in forma pauperis*, if the prisoner has, on three or more prior occasions while incarcerated or detained in any facility, brought an action or appeal in a state court that was dismissed on the grounds it was frivolous, malicious, failed to state a cause of action, or failed to state a claim upon which relief may be granted, pursuant to La. R.S. 15:1187. If a prisoner has at least three dismissals as described in La. R.S. 15:1187 that are not yet final, and further, if the prisoner is disqualified from proceeding as a pauper either in federal court by operation of 28 U.S.C. 1915(g) or in the courts of another state by operation of a similar law of that state, then the court on its own motion may, or on motion of a party shall, stay all proceedings in any other prisoner suit or appeal in which the prisoner is proceeding as a pauper until such time as the dismissals become final, unless the court finds that the prisoner is in imminent danger of serious physical injury.

(d) Actions not governed by the CARP or the PLRA are governed by La. C.C.P. 5181-5185. See also Louisiana Rules for District Courts, Rules 8.0-8.2.

(e) Louisiana Rules for District Courts, Rules 8.1 and 8.2 herein, apply to suits brought

by inmates who proceed *in forma pauperis*.

Adopted effective January 1, 2009.

Comment

Text of former Louisiana District Court Rule 13.3, titled "Civil Rules Governing *In Forma Pauperis* Inmate Suits", is amended and redesignated as Rule 13.2(e), effective January 1, 2009.

Former Rule 13.2, *In Forma Pauperis* Affidavits Filed by Inmates in District Courts, redesignated as Rule 13.3, effective January 1, 2009.

Rule 13.3 *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, including Corrections Administrative Remedy Procedure Act (La. R.S. 15:1171-1179) appeals and Parole Revocation Appeals, use the form in Appendix 9D:

(2) For appeals to Louisiana Circuit Courts of Appeal, use the form in Appendix 9E.

Adopted effective April 1, 2002 as Rule 13.2. Amended effective January 1, 2009. Redesignated from Rule 13.2 to Rule 13.3 effective January 1, 2009.

Comment

Former Louisiana District Court Rule 13.2, *In Forma Pauperis* Affidavits filed by Inmates in District Courts, redesignated Rule 13.3, effective January 1, 2009.

Text of former Louisiana District Court Rule 13.3, Civil Rules Governing *In Forma Pauperis* Inmate Suits, redesignated as Rule 13.2E, effective January 1, 2009.

Rule 13.4 *Parole Revocation Appeals*:

Parole is governed by La. R.S. 15:574.2, et seq. Venue for any action by an individual

committed to the Department of Public Safety and Corrections contesting any action of the Board of Parole shall be in the parish of East Baton Rouge pursuant to La. R.S. 15:574.11. Subject to the limitations set forth in La. R.S. 15:574.11, an offender/prisoner 'appealing the validity of his parole revocation must use the appellate form "Appeal of Parole Revocation" in Appendix 9F and attach to his petition a copy of the Order of Revocation, provided to him by the Parole Board. Service must be requested on the Parole Board only. Within thirty (30) days of service of the Petition on the Parole Board, Counsel for the Parole Board must file a copy of the appellate record of the parole revocation maintained by the Department/Parole Board, and provide the Petitioner with a copy of same. Any motions/exception to be heard prior to the merits of the appeal must be filed contemporaneously with the appellate record or within fifteen (15) days thereafter. Thereafter, the matter will be set for hearing on any exceptions/motions filed and alternatively for oral argument on the appeal, upon notice by the court to the parties, unless the court orders the appeal heard on the briefs.

Adopted effective January 1, 2009.

Comment

Former Louisiana District Court Rule 13.2, *In Forma Pauperis*. Affidavits filed by Inmates in District Courts, redesignated as Rule 13.3, effective January 1, 2009.

Appendix 5C (RULE 5.1) INTERPRETER'S OATH

Do you solemnly swear or affirm that you will accurately, completely and impartially make a true interpretation to the person needing interpretation services of all the proceedings of this case in the language understood by said person, and that you will repeat, in as literal and exact manner as possible, said person's answers and statements to the court, counsel or jury, to the best of your skill and judgment?