

**Art. 253.3. Duty judge exceptions; authority to hear certain matters**

A. In any case assigned pursuant to Article 253.1, a duty judge shall only hear and sign orders or judgments for the following:

- (1) Domestic relations emergency matters and protective orders concerning physical safety.
- (2) Temporary restraining orders.
- (3) Entry of preliminary defaults, confirmation of defaults, stipulated matters, examination of judgment debtors, orders to proceed in forma pauperis, orders allowing the filing of supplemental and amending petitions when no trial date has been assigned, orders allowing incidental demands when no trial date has been assigned, orders allowing additional time to answer, and judicial commitments.
- (4) Uncontested cases in which all parties other than the plaintiff are represented by an attorney appointed by the court.
- (5) Uncontested judgments of divorce pursuant to Civil Code Article 102.
- (6) Orders directing the taking of an inventory; judgments decreeing or homologating a partition, when unopposed; judgments probating a testament ex parte; orders directing the execution of a testament; orders confirming or appointing a legal representative, when unopposed; orders appointing an undertutor or an undercurator; orders appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; orders authorizing the sale of property of an estate administered by a legal representative; orders directing the publication of the notice of the filing of a tableau of distribution, or of an account, by a legal representative; judgments recognizing heirs or legatees and sending them into possession, when unopposed; and all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative.
- (7) Orders for the seizure and sale of property in an executory proceeding.

B. In any case assigned pursuant to Article 253.1, a duty judge shall only sign orders for issuing the following: orders to show cause; orders directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; orders directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; orders for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or quo warranto; and orders for appeal.

C. In any case assigned pursuant to Article 253.1, a duty judge may sign any order specifically and expressly authorized by the judge to whom the case is assigned.

D. When a duty judge hears any matter or signs any order or judgment pursuant to this Article, he shall not acquire jurisdiction over additional matters in the case. Following the ruling of the duty judge, the judge assigned pursuant to Article 253.1 shall hear the other matters in the case, including but not limited to discovery matters, preliminary injunctions, and injunctions.

Acts 2000, 1st Ex. Sess., No. 24, §1; Acts 2017, No. 419, §1.

**Art. 258. Electronic filing and recording of written instruments**

A. Notwithstanding any provision of law to the contrary, a clerk of court, as ex officio recorder, the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages or its successor, hereinafter referred to as "recorder", is authorized to adopt and implement a published plan which shall include a written contract between the clerk of court,

the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages, or its successor, and the filer, which complies with the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq., and which provides for the acceptance of an electronic record of any recordable written instrument except original maps, plats, property descriptions, or photographs as related to the work of a professional surveyor engaged in the "Practice of Land Surveying" as defined in R.S. 37:682 for filing and recording submitted by any person, department, political subdivision, agency, branch, entity, or instrumentality of Louisiana or of the federal government or of a state-chartered or federally chartered financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. The filer of such an electronic record shall certify to the recorder that the written instrument from which the electronic record is taken conforms to all applicable laws relating to the form and content of instruments which are submitted in writing.

B. Immediately after acceptance of an electronic record for filing, the recorder shall endorse such record with the date, hour, and minute it is filed. An electronic filing received on a legal holiday or at any time other than during the normal business hours of the recorder shall be accepted for filing on the next business day by the same procedure followed when a paper document is received in the mail of the recorder at any time other than during normal business hours.

C. An electronic record shall be effective with respect to a third person from the time of its filing in the same manner as if the written instrument had been filed.

D. On or before January 1, 2022, each clerk of court, including the Orleans Parish register of conveyances or its successor and the Orleans Parish recorder of mortgages or its successor, shall adopt and implement a plan for recording electronic documents in accordance with Paragraph A of this Article.

Acts 2005, No. 125, §1; Acts 2008, No. 368, §1; Acts 2017, No. 173, §5.

#### **Art. 259. Liability of clerk of court**

The clerk of court shall not be liable for any damages caused by any third party to any information included in pleadings or documents filed of record by the clerk of court.

Acts 2017, No. 173, §5.

#### **Art. 284. Judicial powers of district court clerk**

The clerk of a district court may render, confirm, and sign final default judgments or judgments by confession in cases where the jurisdiction of the court is concurrent with that of justices of the peace, as provided in Article 5011.

Amended by Acts 1979, No. 46, §2, eff. Jan. 1, 1980; Acts 2017, No. 419, §1.

#### **Art. 925. Objections raised by declinatory exception; waiver**

A. The objections which may be raised through the declinatory exception include but are not limited to the following:

(1) Insufficiency of citation.

(2) Insufficiency of service of process, including failure to request service of citation on the defendant within the time prescribed by Article 1201(C), or failure to request service of petition within the time prescribed by Article 3955.

(3) Lis pendens under Article 531.

(4) Improper venue.

(5) The court's lack of jurisdiction over the person of the defendant.

(6) The court's lack of jurisdiction over the subject matter of the action.

B. When two or more of these objections are pleaded in the declinatory exception, they need not be pleaded in the alternative or in any particular order.

C. All objections which may be raised through the declinatory exception, except the court's lack of jurisdiction over the subject matter of the action, are waived unless pleaded therein.

Acts 1990, No. 521, §2, eff. Jan. 1, 1991; Acts 1997, No. 578, §1; Acts 2006, No. 750, §1; Acts 2010, No. 407, §1; Acts 2017, No. 419, §1.

### **Art. 928. Time of pleading exceptions**

A. The declinatory exception and the dilatory exception shall be pleaded prior to or in the answer and, prior to or along with the filing of any pleading seeking relief other than entry or removal of the name of an attorney as counsel of record, extension of time within which to plead, security for costs, or dissolution of an attachment issued on the ground of the nonresidence of the defendant, and in any event, prior to the signing of a final default judgment. When both exceptions are pleaded, they shall be filed at the same time, and may be incorporated in the same pleading. When filed at the same time or in the same pleading, these exceptions need not be pleaded in the alternative or in a particular order.

B. The peremptory exception may be pleaded at any stage of the proceeding in the trial court prior to a submission of the case for a decision and may be filed with the declinatory exception or with the dilatory exception, or both.

Acts 1983, No. 60, §1; Acts 1997, No. 1055, §1; Acts 1999, No. 983, §1, eff. July 1, 2000; Acts 2017, No. 419, §1.

### **Art. 1002. Answer or other pleading filed prior to signing of final default judgment**

Notwithstanding the provisions of Article 1001, the defendant may file his answer or other pleading at any time prior to the signing of a final default judgment against him.

Acts 2017, No. 419, §1.

### **Art. 1421. Discovery methods**

Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations, including additional medical opinions under Article 1464; request for release of medical records; and requests for admission. Unless the court orders otherwise under Article 1426, the frequency of use of these methods is not limited.

Acts 1976, No. 574, §1; Acts 1993, No. 823, §1; Acts 2017, No. 381, §1, eff. June 23, 2017.

**Art. 1426.1. Stay of discovery in civil matters by a district attorney in a related criminal matter**

A. Upon motion of the district attorney in a criminal proceeding, a court having jurisdiction over any related pending civil action or proceeding may, in the interests of justice and for good cause shown after a contradictory hearing with all parties in the civil action, stay all or a portion of discovery sought in such civil action or proceeding. The contradictory hearing shall be held by the court in the civil action within thirty days of the filing of the motion. Good cause shall include but not be limited to a finding by the court that such discovery will adversely affect the ability of the district attorney to conduct a related criminal investigation or the prosecution of a related felony criminal case.

B. No provision of this Article shall prohibit a party to the stayed discovery proceeding from moving to have the stay subsequently lifted for good cause.

C. Within thirty days after disposition in the trial court of the related criminal prosecution, in any matter where a stay has issued, the district attorney shall file an ex parte motion consenting to the termination of the stay.

D. The time during which the civil proceeding is stayed pursuant to this Article shall not be used to compute the three-year abandonment period of the civil matter.

E. Repealed by Acts 2017, No. 91, §1.

Acts 2012, No. 664, §1; Acts 2017, No. 91, §1.

**Art. 1446. Certification by officer; custody of deposition; exhibits; copies; notice of availability for inspection or copying; cost of originals and copies of transcripts**

A.(1)(a) The officer as defined in Article 1434(B) shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness.

(b) The officer shall do either of the following:

(i) Securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly and simultaneously send it by United States mail or by courier to the party at whose request the deposition was taken, who shall become the custodian of the deposition, and to all other parties to the action who have ordered a copy of the deposition transcript.

(ii) At the request of the parties, seal the deposition electronically by secure electronic means approved by rules promulgated by the Louisiana Board of Examiners of Certified Shorthand Reporters and shall promptly and simultaneously deliver the deposition electronically to the party at whose request the deposition was taken and to all other parties to the action who have ordered a copy of the deposition transcript. The party at whose request the deposition was taken shall then become the custodian of the deposition.

(c) The original of the deposition shall not be filed in the record, but shall be made available to all other parties in the matter for inspection or copying. The failure or lack of filing such original in the record shall not affect the use or admissibility of the original at trial or by the court if otherwise authorized or provided by law.

(2) Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that the person producing

the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

B.(1) Upon payment of reasonable charges therefor, the officer as defined in Article 1434(B) shall furnish a copy of the deposition to any party or to the deponent.

(2) Except as provided by Subparagraph (4) of this Paragraph, an attorney who takes a deposition, the attorney's firm, and the client are liable in solido for a certified shorthand reporter's charges for the reporting of the deposition, transcribing the deposition, and each copy of the deposition transcript requested by the attorney.

(3) Except as provided by Subparagraph (4) of this Paragraph, an attorney who appears at a deposition, the attorney's firm, and the client are liable in solido for the certified shorthand reporter's charges for each copy of the deposition transcript provided by the certified shorthand reporter at the request of the attorney.

(4) Prior to the taking of any deposition, a determination of the person who will pay for the deposition costs shall be agreed upon by the parties in writing or be made on the record, if an attorney is unwilling to be bound by the provisions of Subparagraphs (2) or (3) of this Paragraph. If this determination is made in writing instead of on the record, the certified shorthand reporter shall give a copy of the written determination to all the parties.

(5) In this Paragraph "firm" means a partnership organized for the practice of law in which an attorney is a partner or with which an attorney is associated, or a professional corporation organized for the practice of law of which an attorney is a shareholder or employee. An attorney "takes" a deposition if the attorney obtains the deponent's appearance through an informal request of the deponent directly or through his attorney, or obtains the deponent's appearance through a formal means, including a notice of deposition or subpoena.

(6) Nothing contained in this Paragraph shall preclude the court from awarding the charges of the certified shorthand reporter as a court cost.

C. The party taking the deposition shall give prompt notice to all other parties of its availability for inspection or copying.

D. The taking of a deposition shall be considered a step in the prosecution or defense of an action for the purposes of Article 561, notwithstanding that the deposition is not filed in the record of the proceedings.

Acts 1989, No. 388, §1, eff. June 30, 1989; Acts 1992, No. 336, §1; Acts 1992, No. 1002, §1, eff. Sept. 1, 1992; Acts 2017, No. 268, §1.

#### **Art. 1464. Order for an additional medical opinion for physical or mental examination of persons**

A. When the mental or physical condition of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to an additional medical opinion regarding physical or mental examination by a physician or to produce for examination the person in his custody or legal control, except as provided by law. In addition, the court may order the party to submit to an additional medical opinion regarding an examination by a vocational rehabilitation expert or a licensed clinical psychologist who is not a physician, provided the party has given notice of intention to use such an expert. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

B. Regardless of the number of defendants, a plaintiff shall not be ordered to submit to multiple examinations by multiple physicians within the same field of specialty for the same injury except for good cause shown.

C. A minor subject to examination under the provisions of this Article shall have the right to have a parent, tutor, or legal guardian present during the examination. If such person cannot be present, the court shall order the examination to be videotaped at the expense of the party being examined. The court shall consider the best interests of the minor and may impose conditions upon videotaping, including that it be done in a manner least harmful to the minor and without disclosure to the minor.

Acts 1976, No. 574, §1; Acts 1991, No. 324, §1; Acts 1997, No. 1056, §1; Acts 2017, No. 381, §1, eff. June 23, 2017.

#### **Art. 1701. Preliminary default**

A. If a defendant in the principal or incidental demand fails to answer or file other pleadings within the time prescribed by law or by the court, a preliminary default may be entered against him. The preliminary default may be obtained by oral motion in open court or by written motion mailed to the court, either of which shall be entered in the minutes of the court, but the preliminary default shall consist merely of an entry in the minutes.

B. When a defendant in an action for divorce under Civil Code Article 103(1), by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a preliminary default may be entered against the defendant the day on which the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public. The preliminary default may be obtained by oral motion in open court or by written motion mailed to the court, either of which shall be entered in the minutes of the court, but the preliminary default shall consist merely of an entry in the minutes. Notice of the entry of the preliminary default is not required.

Amended by Acts 1968, No. 126, §1; Acts 1982, No. 587, §1; Acts 1985, No. 481, §1, eff. July 12, 1985; Acts 1987, No. 181, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 2001, No. 512, §1; Acts 2017, No. 419, §1.

#### **Art. 1702. Confirmation of preliminary default**

A. A preliminary default must be confirmed by proof of the demand that is sufficient to establish a prima facie case and that is admitted on the record prior to the entry of a final default

judgment. The court may permit documentary evidence to be filed in the record in any electronically stored format authorized by the local rules of the district court or approved by the clerk of the district court for receipt of evidence. If no answer or other pleading is filed timely, this confirmation may be made after two days, exclusive of holidays, from the entry of the preliminary default. When a preliminary default has been entered against a party that is in default after having made an appearance of record in the case, notice of the date of the entry of the preliminary default must be sent by certified mail by the party obtaining the preliminary default to counsel of record for the party in default, or if there is no counsel of record, to the party in default, at least seven days, exclusive of holidays, before confirmation of the preliminary default.

B.(1) When a demand is based upon a conventional obligation, affidavits and exhibits annexed thereto which contain facts sufficient to establish a prima facie case shall be admissible, self-authenticating, and sufficient proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a final default judgment.

(2) When a demand is based upon a delictual obligation, the testimony of the plaintiff with corroborating evidence, which may be by affidavits and exhibits annexed thereto which contain facts sufficient to establish a prima facie case, shall be admissible, self-authenticating, and sufficient proof of such demand. The court may, under the circumstances of the case, require additional evidence in the form of oral testimony before entering a final default judgment.

(3) When the sum due is on an open account or a promissory note or other negotiable instrument, an affidavit of the correctness thereof shall be prima facie proof. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. In those proceedings in which the sum due is on an open account or a promissory note, other negotiable instrument, or other conventional obligation, or a deficiency judgment derived therefrom, including those proceedings in which one or more mortgages, pledges, or other security for the open account, promissory note, negotiable instrument, conventional obligation, or deficiency judgment derived therefrom is sought to be enforced, maintained, or recognized, or in which the amount sought is that authorized by R.S. 9:2782 for a check dishonored for nonsufficient funds, a hearing in open court shall not be required unless the judge, in his discretion, directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed final default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed final default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the final default judgment. A certified copy of the signed final default judgment shall be sent to the plaintiff by the clerk of court, and notice of the signing of the final default judgment shall be given as provided in Article 1913.

D. When the demand is based upon a claim for a personal injury, a sworn narrative report of the treating physician or dentist may be offered in lieu of his testimony.

E. Notwithstanding any other provisions of law to the contrary, when the demand is for divorce under Civil Code Article 103(1) or (5), whether or not the demand contains a claim for relief incidental or ancillary thereto, a hearing in open court shall not be required unless the judge, in his discretion, directs that a hearing be held. The plaintiff shall submit to the court an affidavit specifically attesting to and testifying as to the truth of all of the factual allegations contained in the petition, the original and not less than one copy of the proposed final judgment, and a

certification which shall indicate the type of service made on the defendant, the date of service, the date a preliminary default was entered, and a certification by the clerk that the record was examined by the clerk, including the date of the examination, and a statement that no answer or other pleading has been filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree shall also be submitted to the court. If no answer or other pleading has been filed by the defendant, the judge shall, after two days, exclusive of holidays, of entry of a preliminary default, review the affidavit, proposed final default judgment, and certification, render and sign the proposed final default judgment, or direct that a hearing be held. The minutes shall reflect rendition and signing of the final default judgment.

Acts 1983, No. 266, §1, eff. Jan. 1, 1984; Acts 1986, No. 219, §1; Acts 1986, No. 285, §1; Acts 1986, No. 430, §1; Acts 1987, No. 182, §1; Acts 1987, No. 271, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 1992, No. 292, §1 ; Acts 2001, No. 512, §1; Acts 2008, No. 354, §1, eff. June 21, 2008; Acts 2013, No. 78, §1; Acts 2014, No. 791, §20; Acts 2015, No. 221, §2; Acts 2017, No. 419, §1.

NOTE: See Acts 2015, No. 221, §4, regarding applicability.

#### **Art. 1703. Scope of judgment**

A final default judgment shall not be different in kind from that demanded in the petition. The amount of damages awarded shall be the amount proven to be properly due as a remedy.

Amended by Acts 1988, No. 443, §2, eff. Jan. 1, 1989; Acts 2017, No. 419, §1.

NOTE: See Acts 1988, No. 443, §3.

#### **Art. 1704. Confirmation of preliminary default in suits against the state or a political subdivision**

A. Notwithstanding any other provision of law to the contrary, prior to confirmation of a preliminary default against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, a certified copy of the minute entry constituting the preliminary default entered pursuant to Article 1701, together with a certified copy of the petition or other demand, shall be sent by the plaintiff or his counsel to the attorney general by registered or certified mail, or shall be served by the sheriff personally upon the attorney general or the first assistant attorney general at the office of the attorney general. If the minute entry and the petition are served on the attorney general by mail, the person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the attorney general with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. In addition the return receipt shall be attached to the affidavit which was filed in the record.

B. If no answer or other pleading is filed during the fifteen days immediately following the date on which the attorney general or the first assistant attorney general received notice of the preliminary default as provided in Paragraph A of this Article, a preliminary default entered against the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be confirmed by proof as required by Article 1702.

C. Notwithstanding any other provision of law to the contrary, prior to confirmation of a preliminary default against a political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities, a certified copy of the minute entry

constituting the preliminary default entered pursuant to Article 1701, together with a certified copy of the petition or other demand, shall be sent by the plaintiff or his counsel by registered or certified mail to the proper agent or person for service of process at the office of that agent or person. The person mailing such items shall execute and file in the record an affidavit stating that these items have been enclosed in an envelope properly addressed to the proper agent or person for service of process, with sufficient postage affixed, and stating the date on which such envelope was deposited in the United States mail. In addition the return receipt shall be attached to the affidavit which was filed in the record.

D. If no answer or other pleading is filed during the fifteen days immediately following the date on which the agent or person for service of process received notice of the preliminary default as provided in Paragraph C of this Article, a preliminary default entered against the political subdivision of the state or any of its departments, offices, boards, commissions, agencies, or instrumentalities may be confirmed by proof as required by Article 1702.

Added by Acts 1978, No. 149, §1, eff. June 29, 1978; Acts 1986, No. 155, §1, eff. June 28, 1986; Acts 2017, No. 419, §1.

#### **Art. 1843. Final default judgment**

A final default judgment is that which is rendered against a defendant who fails to plead within the time prescribed by law.

Acts 2017, No. 419, §1.

#### **Art. 1913. Notice of judgment**

A. Except as otherwise provided by law, notice of the signing of a final judgment, including a partial final judgment under Article 1915, is required in all contested cases, and shall be mailed by the clerk of court to the counsel of record for each party, and to each party not represented by counsel.

B. Notice of the signing of a final default judgment against a defendant on whom citation was not served personally, or on whom citation was served through the secretary of state, and who filed no exceptions or answer, shall be served on the defendant by the sheriff, by either personal or domiciliary service, or in the case of a defendant originally served through the secretary of state, by service on the secretary of state.

C. Notice of the signing of a final default judgment against a defendant on whom citation was served personally, and who filed no exceptions or answer, shall be mailed by the clerk of court to the defendant at the address where personal service was obtained or to the last known address of the defendant.

D. The clerk shall file a certificate in the record showing the date on which, and the counsel and parties to whom, notice of the signing of the judgment was mailed.

E. Repealed by Acts 2008, No. 824, §5, eff. Jan. 1, 2009.

Amended by Acts 1961, No. 23, §1; Acts 1968, No. 127, §1; Acts 1990, No. 1000, §1; Acts 1992, No. 700, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2001, No. 512, §1; Acts 2006, No. 337, §1; Acts 2008, No. 824, §5, eff. Jan. 1, 2009; Acts 2017, No. 419, §1.

#### **Art. 2002. Annulment for vices of form; time for action**

A. A final judgment shall be annulled if it is rendered:

(1) Against an incompetent person not represented as required by law.

(2) Against a defendant who has not been served with process as required by law and who has not waived objection to jurisdiction, or against whom a valid final default judgment has not been taken.

(3) By a court which does not have jurisdiction over the subject matter of the suit.

B. Except as otherwise provided in Article 2003, an action to annul a judgment on the grounds listed in this Article may be brought at any time.

Acts 1997, No. 578, §1; Acts 2017, No. 419, §1.

#### **Art. 3396.18. Inventory or sworn descriptive list**

A. Before the succession can be closed and the independent administrator discharged, there must be filed an inventory or sworn detailed descriptive list of assets and liabilities of the estate verified by the independent administrator.

B. The detailed descriptive list shall be sealed upon the request of an independent administrator, heir, or legatee.

C. If the detailed descriptive list is sealed, a copy shall be provided to the decedent's universal successors and surviving spouse. Upon motion of any successor, surviving spouse, or creditor of the estate, the court may furnish relevant information contained in the detailed descriptive list regarding assets and liabilities of the estate.

Acts 2001, No. 974, §1; Acts 2010, No. 175, §1; Acts 2017, No. 198, §1.

### **TITLE V**

#### **SMALL SUCCESSIONS**

##### **CHAPTER 1. GENERAL DISPOSITIONS**

#### **Art. 3421. Small successions defined**

A small succession, within the meaning of this Title, is the succession or the ancillary succession of a person who at any time has died and the decedent's property in Louisiana has a gross value of one hundred twenty-five thousand dollars or less valued as of the date of death or, if the date of death occurred at least twenty years prior to the date of filing of a small succession affidavit as authorized in this Title, leaving property in Louisiana of any value.

Amended by Acts 1976, No. 187, §1, eff. Jan. 1, 1977; Acts 1979, No. 71, §1, eff. Jan. 1, 1980; Acts 1980, No. 582, §1; Acts 2009, No. 81, §1, eff. June 18, 2009; Acts 2011, No. 323, §1, eff. June 29, 2011; Acts 2012, No. 618, §1, eff. June 7, 2012; Acts 2017, No. 96, §1.

#### **Art. 3422. Court costs; compensation**

In judicial proceedings under this Title, the following schedule of costs, compensation, and fees shall prevail:

(1) Court costs for successions valued less than seventy-five thousand dollars shall be one-half the court costs in similar proceedings in larger successions, but the minimum costs in any case shall be five dollars; and

(2) The compensation of the succession representative shall be not more than five percent of the gross assets of the succession.

Acts 2017, No. 96, §1.

## **CHAPTER 3. MANDAMUS**

### **Art. 3861. Definition**

Mandamus is a writ directing a public officer, a corporation or an officer thereof, or a limited liability company or a member or manager thereof, to perform any of the duties set forth in Articles 3863 and 3864.

Acts 2017, No. 419, §1.

### **Art. 3864. Mandamus against corporation or corporate officer; limited liability company or member or manager**

A. A writ of mandamus may be directed to a corporation or an officer thereof to compel either of the following:

(1) The holding of an election or the performance of other duties required by the corporation's articles of incorporation or bylaws, or as prescribed by law.

(2) The recognition of the rights of the corporation's members or shareholders.

B. A writ of mandamus may be directed to a limited liability company or a member or manager thereof to compel either of the following:

(1) The holding of an election or the performance of other duties required by the limited liability company's articles of organization or operating agreement, or as prescribed by law.

(2) The recognition of the rights of the limited liability company's members.

Acts 2017, No. 419, §1.

## **CHAPTER 4. QUO WARRANTO**

### **Art. 3901. Definition**

Quo warranto is a writ directing an individual to show by what authority he claims or holds public office, or office in a corporation or limited liability company, or directing a corporation or limited liability company to show by what authority it exercises certain powers. Its purpose is to prevent usurpation of office or of powers.

Acts 2017, No. 419, §1

### **Art. 3902. Judgment**

When the court finds that a person is holding or claiming office without authority, the judgment shall forbid him to do so. It may declare who is entitled to the office and may direct an election when necessary.

When the court finds that a corporation or limited liability company is exceeding its powers, the judgment shall prohibit it from doing so.

Acts 2017, No. 419, §1.

### **Art. 3955. Service of petition**

A. When a petition for divorce is filed in accordance with Civil Code Article 102, service of the petition shall be requested on the defendant within ninety days of the filing of the petition.

B. If the defendant is an absentee, the request for appointment of an attorney to represent the absentee defendant within ninety days of commencement of the action constitutes compliance with the requirements of Paragraph A of this Article.

C. The defendant may expressly waive the requirements of Paragraph A of this Article by any written waiver. The requirement provided by Paragraph A of this Article shall be expressly waived by a defendant unless the defendant files, in accordance with the provisions of Article 928, a declinatory exception of insufficiency of service of process specifically alleging the failure to timely request service of the petition, in which case, after due proceedings, the action shall be dismissed.

D. If not waived, a request for service of citation upon the defendant shall be considered timely if requested on the defendant within the time period provided by this Article, notwithstanding insufficient or erroneous service.

Acts 2010, No. 407, §1; Acts 2014, No. 379, §2, eff. May 30, 2014; Acts 2017, No. 419, §1.

#### **Art. 4904. Final default judgment in parish and city courts**

A. In suits in a parish court or a city court, if the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff proves his case, a final default judgment in favor of plaintiff may be rendered. No preliminary default is necessary.

B. The plaintiff may obtain a final default judgment only by producing relevant and competent evidence which establishes a prima facie case. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

C. When the sum due is on an open account, promissory note, negotiable instrument, or other conventional obligation, a hearing in open court shall not be required unless the judge in his discretion directs that such a hearing be held. The plaintiff shall submit to the court the proof required by law and the original and not less than one copy of the proposed final default judgment. The judge shall, within seventy-two hours of receipt of such submission from the clerk of court, sign the proposed final default judgment or direct that a hearing be held. The clerk of court shall certify that no answer or other pleading has been filed by the defendant. The minute clerk shall make an entry showing the dates of receipt of proof, review of the record, and rendition of the final default judgment. A certified copy of the signed final default judgment shall be sent to the plaintiff by the clerk of court.

Acts 1986, No. 156, §1; Acts 2017, No. 419, §1.

#### **Art. 4921. Final default judgment; justice of the peace courts; district courts with concurrent jurisdiction**

A. If the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff proves his case, a final default judgment in favor of plaintiff may be rendered. No preliminary default is necessary.

B. The plaintiff may obtain a final default judgment only by producing relevant and competent evidence which establishes a prima facie case. When the suit is for a sum due on an open account, promissory note, negotiable instrument, or other conventional obligation, prima facie proof may be submitted by affidavit. When the demand is based upon a promissory note or other negotiable instrument, no proof of any signature thereon shall be required.

Acts 1986, No. 156, §1; Acts 2017, No. 419, §1.

**Art. 4921.1. Demand for trial; abandonment; applicability**

A. After the lapse of fifteen days from the date the answer to the suit is filed pursuant to Article 4920, any party may make written demand to have the case set for trial. The judge shall give notice of trial within forty-five days of the answer being filed. The court shall issue notice of trial to be held within forty-five days of that date.

B. Notwithstanding the three-year period for abandonment as provided by Article 561, if the parties fail to take any step in the prosecution or defense of the action for a period of one year, the action shall otherwise be subject to the procedures for abandonment as provided by Article 561, provided that the court has jurisdiction over the subject matter.

C.(1) Notwithstanding the provisions of Paragraph A of this Article, the justice of the peace or clerk may set the matter for trial upon filing of a petition. The date, time, and location of the trial shall be contained in the citation. The first scheduled trial date shall be not more than forty-five days, nor less than ten days, from the service of the citation. If the defendant appears, he need not file an answer unless ordered to do so by the court. If a defendant who has been served with citation fails to appear at the time and place specified in the citation, the judge may enter a final default judgment for the plaintiff in the amount proved to be due. If the plaintiff does not appear, the judge may enter an order dismissing the action without prejudice.

(2) If a matter has been set for trial pursuant to Subparagraph (1) of this Paragraph, no final default judgment shall be rendered prior to the trial date.

Acts 2005, No. 489, §1; Acts 2015, No. 424, §1; Acts 2017, No. 419, §1.

**Art. 5095. Same; defense of action**

The attorney at law appointed by the court to represent a defendant shall use reasonable diligence to inquire of the defendant, and to determine from other available sources, what defense, if any, the defendant may have, and what evidence is available in support thereof.

Except in an executory proceeding, the attorney may except to the petition, shall file an answer or other pleading in time to prevent a final default judgment from being rendered, may plead therein any affirmative defense available, may prosecute an appeal from an adverse judgment, and generally has the same duty, responsibility, and authority in defending the action or proceeding as if he had been retained as counsel for the defendant.

Acts 2017, No. 419, §1.

NOTES:

\*\*\* Code of Civil Procedure ==> NOT FOUND

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