

# Louisiana Code of Civil Procedure

<p><b>Subject Matter Jurisdiction</b></p> <p>Subject matter jurisdiction is the legal power and authority of a court to hear a particular class of actions or proceedings based on the object of the demand, the amount in dispute, or the value of the rights asserted.</p> <p>Parish Courts, City Courts, and Justice of the Peace Courts cannot hear cases where the amount in dispute or the value of the property involved exceeds \$20,000.</p> <p>Parish Courts, City Courts, and Justice of the Peace Courts cannot hear cases involving: (1) a title to immovable property; (2) the plaintiff asserts civil or political rights under the federal or state constitutions; or (3) where the state, parish, or other political corporation is a defendant.</p>	<p><b>Special Venue Locations</b></p> <p>For joint or solidary obligors, venue is proper as to any one of joint or solidary obligors will be proper to all.</p> <p>For tort suits, venue is proper in the parish where: (1) the damages were sustained; (2) the wrongful conduct occurred; or (3) the defendant is domiciled.</p> <p>For open accounts, the venue is the parish where the account was created or where the underlying services were performed, or the debtor's domicile. For promissory notes, the venue is the parish where the note was executed or the debtor's domicile.</p> <p>An action of a life insurance policy may be brought in the parish of decedent's death, where the decedent was domiciled, or where any beneficiary is domiciled. An action on a health or accident policy may be brought in the parish where the insured is domiciled or where the accident or illness occurred. Actions on other insurance policies may be brought in the parish where the loss occurred or the insured is domiciled.</p> <p>An action on a contract may be brought in the parish where the contract was executed (including any parish where a party signed a contract) or where any work or service was, or was to be, performed.</p> <p>An action against a person having a business office on a matter over which that office had supervision may be brought where the office is located.</p> <p>If venue is improper, the suit may be dismissed, or in the interest of justice, transferred to a court of proper venue.</p>	<p><b>Pleadings</b></p> <p>The four types of pleadings are petitions, answers, written motions, and exceptions.</p> <p><b>Pleadings Requirement</b></p> <p>Louisiana requires fact pleading and thus the facts pleaded must set forth a cause of action with particularity. Judgment may grant relief even if not prayed for in the pleading and both trial and appellate courts may render any judgment that is just, legal, and proper.</p> <p><b>Attorney's Signature</b></p> <p>An attorney's signature on a pleading is a certification that he has read it and that to the best of his knowledge, information and belief formed after a reasonable inquiry, he certifies that: (1) it is not being used for any improper purpose such as to harass, delay, or increase costs; (2) it is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law; (3) it has or is likely to have (after investigation or discovery) evidentiary support; and (4) each denial is warranted by the evidence or reasonably based on lack of information or belief.</p> <p><b>Sanctions</b></p> <p>An attorney may be sanctioned for violation of the rule, including an order to pay the other attorney reasonable expenses and attorney fees incurred because of the filing of the pleading.</p>	<p><b>Declatory Exceptions</b></p> <p>In a declatory exception, the exceptor declines the jurisdiction of the court for any of the following reasons: (1) insufficient of service of process; (2) lis pendens; (3) improper venue; (4) lack of personal jurisdiction; or (5) lack of SMJ. The exceptions must be raised prior to or in the answer, but no later than the signing of a final default judgment. Evidence may be introduced if the grounds do not appear in the petition, citation, or return.</p> <p><b>Dilatory Exceptions</b></p> <p>In a dilatory exception, the exceptor delays for any of the following reasons: (1) prematurity; (2) want of amicable demand; (3) vagueness of ambiguity in the petition; and (4) improper cumulation of actions. The exceptions must be raised prior to or in the answer, but no later than the signing of a final default judgment. Evidence may be introduced if the grounds do not appear in the petition, citation, or return.</p> <p><b>Peremptory Exceptions</b></p> <p>In a peremptory exception, the suit will be dismissed. The grounds include: (1) prescription; (2) peremption; (3) res judicata (A valid and final judgment is conclusive between the same parties); (4) nonjoinder of a party under 641 and 642; or (5) no cause of action. The exceptions can be pleaded at any time in either trial or appellate court prior to the submission of the case for decision. The introduction of new evidence depends on if the exception is pleaded at OR prior to the trial, after the trial of the case, but prior the submission for a decision.</p>
<p><b>Personal Jurisdiction / Long Arm Jurisdiction</b></p> <p>Personal jurisdiction is the legal power of a court to render a personal judgment against a party, independent of any property owned by him. A court may obtain personal jurisdiction based on: (1) service of process on the defendant or his agent for service of process; (2) service of process on an attorney at law; (3) court must appoint counsel at law to represent defendant – a defendant who is a non resident or absentee not served with process or a minor or incompetent with no representative; (4) consent to jurisdiction; and (5) long arm jurisdiction.</p> <p>Long arm statutes authorize personal jurisdiction over nonresidents based on certain acts or omissions in the state. A court may exercise personal jurisdiction over a nonresident who acts directly or by an agent as to a cause of action arising from various activities:</p> <ul style="list-style-type: none"> <li>(1) Transacting any business in LA.</li> <li>(2) Contracting to supply services or things in LA.</li> <li>(3) Causing injury or damage by an offense or quasi-offense committed through an act or omission in LA.</li> <li>(4) Causing injury or damage in LA by an act or omission outside LA if the nonresident regularly does or solicits business in LA, engages in any other persistent course of conduct in LA, or derives substantial revenue from goods used or consumed or services rendered in LA.</li> <li>(5) Having an interest in, using, or possessing a real right on immovable property in LA.</li> <li>(6) Manufacturing of a product or component thereof which caused damage or injury in LA, if at the time of placing the product into the stream of commerce, the manufacturer could have foreseen, realized, expected, or anticipated that the product may eventually be found in LA by reason of its nature and the manufacturer's marketing practices.</li> </ul>	<p><b>Recusation of Judges</b></p> <p>A judge of trial or appellate court shall be recused when he: (1) is a witness; (2) has been employed or consulted as an attorney in the cause; (3) is the spouse of a party or attorney in the cause or the judge's parent, child or immediate family member is a party or attorney in the cause; (4) is biased, prejudiced, or interested in the cause or its outcome, or biased toward any of the parties.</p> <p>A judge of trial or appellate court may be recused when he: (1) has been associated with an attorney; (2) represents the judge at the time of the hearing; (3) has performed a judicial act in the case in another court; and (4) is related to a party within the fourth degree.</p>	<p><b>Service</b></p> <p>Service shall be requested on all named defendants within 90 days of the commencement of the action. When request for service is made by mail, it must actually be received by the clerk within 90 days. After service is accomplished, an affidavit must be filed to prove the service.</p> <p>Personal Service is made by one authorized to so, generally the sheriff or, if he fails after 10 days of diligent effort, a private natural or juridical person appointed by the court. The private person must be a LA resident over the age of majority and not a party.</p> <p>Domiciliary Service is made by the leaving the process at the dwelling or usual place of abode of the defendant, with a person of suitable age and discretion who resides there.</p> <p>For corporations, service is made by personal service on its registered agent, or if none, on any officer, director or employee of suitable age and discretion where the corporation regularly conducts business. Failing that, after diligent effort, service should be made to the secretary of state.</p> <p>For Long Arm Service, service is made by mailing the citation and petition by certified or registered mail or by actual delivery to the defendant by commercial courier.</p> <p>For Nonresident Motorists, service is made on the secretary of state and by mailing notice of service to the defendant, certified or registered mail, return receipt requested, to the address shown in the accident report.</p> <p>For Partnerships, service is made by personal service on a partner or on a partnership in commendam by personal service on a general partner.</p> <p>For nonparty physicians, service is made by personal service on any clerical employee of the doctor.</p> <p>For LLCs, service is made by personal service on an agent; failing that, after certifying there was a diligent effort to serve the agent, by personal service on any manager, if none, any member; or personal service on any employee of suitable age and discretion where business is conducted; or long arm service, if applicable.</p>	<p><b>Incidental Demands</b></p> <p>Incidental demands may be filed prior to or at the same time the answer is filed. If the court would have jurisdiction over the incidental demand were it filed separately, it will have jurisdiction over the incidental action.</p> <p><b>Types of Incidental Demands</b></p> <p>A reconventional demand (the same as a counter-claim) may include any claim, whether related to the primary action or not.</p> <p>A cross-claim may assert a demand against a co-party provided the demand arose out of the transaction or occurrence that is the subject matter of the original action or of a reconventional demand.</p> <p>An intervening party must be seeking to enforce a right related or connected to the object of the pending suit by joining with the plaintiff, joining with the defendant, or opposing both.</p> <p>A third party demand filed by a defendant (or a defendant in reconvention) can bring into a lawsuit a party who maybe liable to him in indemnity or contribution for all/part of the principal demand.</p>
<p><b>Constitutional Limitations</b></p> <p>Due process requires that to subject a nonresident to personal jurisdiction, the defendant must have certain minimum contacts with the forum state such that maintenance of the suit does not offend traditional notions of fair play and substantial justice. Minimum contacts is generally satisfied if the defendant has purposefully directed activities at forum residence. The defendant must prove "unfairness", e.g., inconvenience or local prejudice. The factors to consider unfairness to the defendant include the burden on the defendant; the state's interest in the dispute; the plaintiff's interest in obtaining relief; the judicial system's interest in efficient resolution; and the state's interest in substantive social policies.</p>	<p><b>Contempt</b></p> <p>Contempt is any act or omission tending to obstruct or interfere with the orderly administration of justice or impair the dignity of the court or respect for its authority.</p> <p><b>Decorum</b></p> <p>As an officer of the court, an attorney must conduct himself with decorum, consistent with the dignity and authority of the court; treat others in court with due respect; not interrupt opposing counsel or impede proceedings; and not knowingly encourage or produce false evidence. Violation is punishable as a contempt of court.</p>	<p><b>Default Judgment after Service</b></p> <p>A default judgment may be entered against the defendant if he fails to respond timely. For service within the state, there is a period 15 days within the state, 10 days for city or parish courts. For long arm defendants, there is a period of 30 days from filing of the affidavit regarding the service of petition.</p> <p>Once the applicable time period elapses, the plaintiff has a preliminary default entered in the minutes of the records. After two days exclusive of holidays, the plaintiff may appear and confirm the default by presenting a prima facie case. The evidence must be admitted into the record. A default judgment is then entered that is a final judgment.</p> <p>If the defendant was served personally, notice of final judgment must be mailed by the clerk of court to the personal service address or last known address of the defendant.</p> <p>If the defendant was served by domiciliary service, notice of final default judgment must be served by the sheriff by personal notice or domiciliary service.</p>	<p><b>Motions</b></p> <p>A motion is an application to the court for an order. Motions must be in writing unless they are presented in some other pleading, made during trial or hearing, or made in open court. They may be ex parte if the order sought is one to which the mover is clearly entitled without supporting proof; or contradictory if the order sought is one to which the mover is not clearly entitled, or which requires supporting proof.</p> <p><b>Motion to Strike</b></p> <p>The court on its own motion or that of any party may at any time and after a hearing strike a pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter.</p> <p><b>Judgment on the Pleadings</b></p> <p>A motion for Judgment on the Pleadings is used by any party after the answer has been filed. Court looks only at the pleadings themselves, and considers all of the mover's undenied allegations, and all of the opponent's allegations, as true.</p> <p><b>Motion for Summary Judgment</b></p> <p>The court shall grant a motion for summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. A party asserting that a fact cannot be disputed – or is genuinely disputed – must support that assertion through the citing what the record can establish through an affidavit or declarations, showing what cannot be established, or objecting to material cited as inadmissible.</p> <p>Each affidavit must be based on personal knowledge, set forth the facts that would be admissible in evidence, and show the affiant is competent to testify on the matters stated. The court cannot assess the credibility of witnesses or weigh the evidence when ruling on a motion for summary judgment. The court must construe the facts in light most favorable to the non-movant.</p> <p>A motion for summary judgment may be filed by the plaintiff after the answer has been filed. The defendant's motion may be filed at any time.</p> <p>The motion and supporting affidavits must be served at least 65 days prior to trial. An opposing memo and affidavits must be served at least 15 days before the hearing. The hearing on the motion must be set more than 30 days after filing the motion and more than 30 days before trial. Any judgment must be entered 20 days before trial. In all cases, the judge must state her reasons on the record or in writing.</p>
<p><b>Venue for Types of Defendants</b></p> <p>Venue is the parish where an action or proceeding may be properly brought.</p> <p>For individual defendants domiciled in Louisiana, the parish of domicile is the proper venue. Domicile of a natural person is the place of his habitual residence</p> <p>For individuals who reside in Louisiana but are not domiciled, the parish of residence is the proper venue.</p> <p>For an individual nonresident with agent for service of process, the parish of the agent's P.O. box address is the proper venue.</p> <p>For an individual nonresident without agent for service of process, the parish of the plaintiff's domicile or where service is made is the proper venue.</p> <p>For a domestic corporation or LLC, the parish of its registered office is the proper venue.</p> <p>For a foreign corporation or LLC licensed to do business in Louisiana, the parish of its principal business establishment as designated in application to do business, or if no designation, the parish of its primary place of business is the proper venue.</p> <p>For a foreign corporation or LLC not licensed to do business in Louisiana, the parish of the plaintiff's domicile or where service is made is the proper venue.</p> <p>For domestic insurers, the parish of its registered office is the proper venue.</p> <p>For foreign or alien insurers, East Baton Rouge parish is the proper venue.</p> <p>For partnerships and unincorporated associations, the parish of its principal business establishment is the proper venue.</p>	<p><b>Lis Pendens</b></p> <p>When two or more suits are pending in more than one court on the same transaction or occurrence between the same parties in the same capacities, all but the suit filed first must be dismissed, or, if the defendant does not except, the first final judgment shall be conclusive of all.</p> <p>When a suit is brought in Louisiana while another is pending in another state or in federal court on the same transaction or occurrence between the same parties in the same capacities, the court may stay proceedings in the second suit pending outcome of the first.</p> <p><b>Abandonment</b></p> <p>If at any stage of a proceeding three years pass without either party taking any steps in its prosecution or defense, the suit is deemed abandoned and will be dismissed. The steps must be formal and official.</p>	<p><b>The Answer</b></p> <p>The defendant has 15 days to file his answer in district court, or 10 days in city or parish court. The period commences the day after the defendant was served.</p> <p>The answer either admits or denies allegations of the plaintiff contained in each paragraph of the petition and all allegations not denied are deemed admitted. The defendant can also deny by stating that he lacks knowledge or information sufficient to form a belief in the truth of the allegation.</p> <p><b>Affirmative Defenses in the Answer</b></p> <p>Affirmative defenses, which include a failure of consideration, mitigation of damages, negligence or fault of the plaintiff and others, duress, error or mistake, estoppel, extinguishment of an obligation in any manner, illegality, and fraud, MUST be raised in the answer. When a defendant fails to timely plead an affirmative defense in his answer, he will be prohibited from offering evidence in support of that defense. Should the defendant raise any of these defenses during trial without having pled them in the answer, plaintiff's counsel should object to the introduction of this evidence.</p>	<p><b>Motion for Summary Judgment</b></p> <p>The court shall grant a motion for summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. A party asserting that a fact cannot be disputed – or is genuinely disputed – must support that assertion through the citing what the record can establish through an affidavit or declarations, showing what cannot be established, or objecting to material cited as inadmissible.</p> <p>Each affidavit must be based on personal knowledge, set forth the facts that would be admissible in evidence, and show the affiant is competent to testify on the matters stated. The court cannot assess the credibility of witnesses or weigh the evidence when ruling on a motion for summary judgment. The court must construe the facts in light most favorable to the non-movant.</p> <p>A motion for summary judgment may be filed by the plaintiff after the answer has been filed. The defendant's motion may be filed at any time.</p> <p>The motion and supporting affidavits must be served at least 65 days prior to trial. An opposing memo and affidavits must be served at least 15 days before the hearing. The hearing on the motion must be set more than 30 days after filing the motion and more than 30 days before trial. Any judgment must be entered 20 days before trial. In all cases, the judge must state her reasons on the record or in writing.</p>

# Louisiana Code of Civil Procedure

<p><b>Amended and Supplemental Pleadings</b> Plaintiff may amend without leave of court before the answer is served. Otherwise, leave of court or consent of opposing counsel is required. An answer to the amended petition is required with 10 days.</p> <p>Defendant may amend once within 10 days after the original answer is served. Dilatory and declinatory exceptions may be amended prior to the hearing with leave of court or written permission of the adverse party, but only to amplify. The peremptory exception may be amended at any time, even to plead an objection not originally set forth.</p> <p>If the action or defense asserted in the amended petition or answer arises from the conduct, transaction or occurrence set forth in the original pleading, the amended petition relates back to the original filing date.</p>	<p><b>Request for Production of Documents</b> A request for production of documents can be served on any party. Once served, the adverse party must make all specified materials available for inspection, copying, testing, or sampling. A 30-day time limit is imposed for responding or objecting. A party may organize the produced documents to correspond to the requests or produce them as they are kept in the usual course of business.</p> <p>A subpoena duces tecum compels a witness to bring certain documents, tangible things, or electronically stored information with him.</p> <p><b>Examinations</b> An adverse party may be compelled to undergo such an exam only if the physical or mental condition of the party is at issue. A party who has compelled the exam must deliver a copy to the other parties in interest if requested, but then may request the examined party to deliver reports of any exams he has for the same condition.</p>	<p><b>Pretrial Procedure: Motion for Judgment or Offer of Judgment</b> Twenty days or more before the trial, a party may make a written offer to settle all claims with an adverse party without an admission of liability. The written offer must state it is being made pursuant to article 970 (specify the amount of the offer; if the amount includes costs, interest, or attorneys' fees).</p> <p>If the offer is accepted, any party may move for judgment on the offer within 10 days after service.</p> <p>If the offer is not accepted and the final judgment obtained by the plaintiff-offeree is at least 25% less than the amount of the offer of judgment, or at least 25% greater than the amount of the offer of judgment made by the plaintiff-offeror, the offeree must pay the offeror's costs, exclusive of attorneys' fees, incurred after the offer was made.</p>	<p><b>Additur</b> A party should file a motion for additur to increase the amount of the award. Additur is appropriate when the damages awarded are so clearly inadequate that new trial could be granted on that basis alone. Quantum must be clearly separable from other issues in the case and defendant must consent to the increase in the award as an alternative to a new trial. If entered, the court will reform the jury verdict in accordance with the motion.</p> <p><b>Remittitur</b> A party should file a motion for remittitur to decrease the amount of the award. Remittitur is appropriate when the verdict is so excessive that a new trial should be granted for that reason only. Quantum must be clearly separable from other issues in the case and defendant must consent to the decrease in the award as an alternative to a new trial. If entered, the court will reform the jury verdict in accordance with the motion.</p>
<p><b>Discovery</b> The types of discovery include depositions, interrogatories, requests for production of documents, physical and mental examinations, requests for release of medical or business records, and requests for admissions.</p> <p>Parties may obtain discovery regarding any matter not privileged which is relevant to the subject matter involved in the pending action. The information sought need not be admissible at trial if the information is reasonably calculated to lead to the discovery of admissible evidence.</p> <p>If the party fails to comply with the discovery request, the opposing party may apply to the court for an order compelling discovery. Sanctions can be deeming a matter proved, excluding evidence, striking pleadings, dismissing the case, or entering a default judgment against the defendant.</p> <p>Protective Orders are available to prevent annoyance, embarrassment, oppression, or undue burden or expense. The remedies include prohibiting discovery, limiting terms of discovery, and ordering that the trade secret or confidential information may not be disclosed, or designating the form of its disclosure.</p>	<p><b>Discovery: Work Product</b> Writings or electronically stored information prepared by a party or his attorney in anticipation of litigation or in preparation for trial are not discoverable unless denial will cause unfair prejudice, undue hardship, or injustice to the party seeking discovery. This rule protects from disclosure any writing or electronically stored information that reflects the mental impressions, conclusions, opinions, or theories of an attorney. This privilege applies only to writings or electronically stored information, not video tapes or other tangible things.</p> <p><b>Subpoena Witnesses</b> A subpoena, when served, requires the object of the subpoena to attend a hearing, trial, or deposition. Witnesses who work or reside in Louisiana may be subpoenaed to attend trials of hearings anywhere in the state. The party making out the subpoena is required to pay expenses for witnesses resided and employed outside the parish and more than 25 miles from the courthouse.</p>	<p><b>Trial: Consolidation</b> A case will not be consolidated if it would cause the jury confusion, prevent a fair and impartial trial, give a party an undue advantage, or prejudice a party.</p> <p><b>Continuances</b> The court may grant a continuance if there is good ground to do so. The court must grant the continuance if (1) the party is unable, with due diligence, to obtain material evidence; or (2) a material witness has absented himself without the contrivance of the party requesting the continuance. An adverse party can prevent a continuance on this ground by requiring the party requesting the continuance to disclose under oath the expected testimony of the absent witness and, if the adverse party admits the witness would so testify, the case will proceed to trial.</p> <p><b>Testimony by Video</b> The court may order, upon a showing of appropriate safeguards, live testimony by teleconference, video link, or other visual remote technology, if the witness is beyond the subpoena power of the court or when compelling circumstances are shown. The order may be entered at a pretrial conference or in exceptional circumstances, after hearing at least 10 days prior to trial or at another time that does not prejudice the parties.</p> <p>Depositions by telephone are permitted if agreed upon by the parties or if the court orders it.</p>	<p><b>Judgments: Final and Partial Judgments</b> Final judgments must be signed by the judge and the clerk must mail the notice of signing of judgment to all counsel of record and each unrepresented party and file a certificate of mailing in the record. On motion of the court or any party, a final judgment may be amended by the trial court at any time to correct errors of calculation or to alter the phraseology but not the substance.</p> <p>Partial: Final judgments may be rendered by the court even though the successful party is not granted all the relief prayed for or all the issues have not been adjudicated when the court dismissed the suit as to less than all the parties. When a court renders a partial judgment or partial summary judgment, or sustains an exception in part, as to less than all the claims, the judgement shall not constitute a final judgment unless designated by the court.</p> <p>In all appealable contested cases, other than jury trials, the court shall issue written findings of fact and reasons for judgement requested by a party within 10 days of the mailing of the notice of signing of judgment.</p>
<p><b>Depositions</b> Questions in a deposition may address any relevant, non-privileged matter, even if the information is inadmissible later. They may be used to impeach a witness or if the witness is unavailable at trial.</p> <p>A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence imposed by the court, to prevent harassing or repetitious questions, or to prevent questions which seek information that is neither admissible at trial nor reasonably calculated to lead to the discovery of admissible evidence. A motion to terminate upon showing the deposition is being conducted in bad faith or to annoy, embarrass, or oppress the deponent or party.</p> <p>When a corporation or other entity is deposed, it has a duty to provide deponents who are qualified to answer the questions posed. The plaintiff can file a 1442 notice of deposition on the corporation if they do not know who the appropriate officer is to depose. The notice should name the defendant corporation and designate the matters that will be discussed in the deposition. The organization shall designate the appropriate officers or person to testify.</p>	<p><b>Discovery: Experts</b> The name of any expert a party expects to call as a witness at trial is discoverable. The court may order that the party must provide a written report prepared and signed by the expert which must include the expert's opinions and reasons and any information as to why those opinions are based. The report must include exhibits, qualifications, publications of the previous 10 years, compensation for providing expert services, and all cases in the preceding 4 years in which he has testified as an expert. The expert's report must be filed 90 days before trial or 30 days after opposing side's report is disclosed. Drafts of an expert's report and communications, including notes and electronically stored information that reflect mental impressions, opinions, or trial strategy of the attorney who retained the expert are not discoverable except upon showing exceptional circumstances.</p> <p>Any party may file, not later than 60 days before trial, a motion for a pretrial hearing to determine whether a witness qualifies as an expert or his methods are reliable under 702-705 in the Code of Evidence. A contradictory hearing and ruling must occur at least 30 days before trial. The ruling must recite findings of fact, conclusions of law, and reasons for judgment, including (1) requirements of evidence article 702-705; (2) evidence presented at the hearing; (3) the judge's decision as to whether the witness will be allowed to testify; and (4) the reasons for the decision.</p>	<p><b>Trial: Jury Challenges</b> Peremptory challenges can be used to strike a juror without any stated reason. For a jury of 12, each side has six challenges, and up to four additional challenges if there are multiple parties. For a jury of 6, each side has three challenges, and up to two additional challenges if there are multiple parties.</p> <p>A juror may be challenged for cause if: (1) the juror lacks legal qualification; (2) formed an opinion or is otherwise not impartial; (3) relations between the juror and the party or attorney would influence the juror; (4) juror has been on a jury hearing the same case or one arising out of the same facts; or (5) the juror takes the 5<sup>th</sup> on voir dire. This can occur after jury sworn in up until begin hearing evidence. The court can rehabilitate juror to determine if can become impartial.</p> <p>Jurors may take notes and use them during deliberations. If the juror wants to review testimony, it may be read to them in the courtroom after notice to the parties.</p> <p><b>Voluntary and Involuntary Dismissal</b> A plaintiff may obtain voluntary dismissal without prejudice prior to any appearance of record by the defendant; following any appearance, the court may decline to grant dismissal except with prejudice.</p> <p>Involuntary dismissal may be granted if the plaintiff fails to appear for trial.</p> <p>A judgment dismissing an action without prejudice shall be rendered for the defendant for whom service was not requested within 90 days of the commencement of the action.</p>	<p><b>Judgments: Declaratory Judgments</b> A declaratory judgment is a type of final judgment used for purposes of determining rights before a contract has actually been breached. Court can order any kind of relief it deems appropriate regardless of the existence of any other available remedy. Will have force and effect of final judgment.</p> <p><b>Motion for New Trial</b> A new trial may be granted on contradictory motion of a party or the court on its own motion, as to all or any parties and on all or part of the issues, or for re-argument only. It must be filed within 7 days, exclusive of holidays and weekends, from mailing or service of notice of signing of judgment.</p> <p>A court must grant a new trial when: (1) verdict clearly contrary to the law and evidence; (2) the discovery of new evidence which could not have been discovered with due diligence before or during trial; or (3) when a juror was bribed or compromised. The standard is similar to a JNOV motion except the trial judge is free to evaluate the evidence without favoring either party; he may draw his own inferences and conclusions and may evaluate the credibility of the witnesses. The motion is granted if the verdict or judgment is clearly contrary to the law or evidence.</p>
<p><b>Interrogatories</b> Interrogatories are written questions directed to any party. They must be answered under oath, or objected to, within 30 days of service. There is a limit of 35, including subparts.</p> <p>When answers to interrogatories can be obtained from a request for a production of documents, the defendant can specify where in the documents the answers may be found and if the burden is substantially the same for both parties, make the documents available instead of answering the interrogatories.</p> <p>Generally, there is no duty to supplement responses which were complete when made. The exception includes any question regarding the identity and location of persons with knowledge of discoverable matters</p>	<p><b>Attorney Certifying Discovery</b> An attorney's signature on a discovery request, response, or objection is a certification that he has read the document and that, to the best of his knowledge, information, and belief, formed after reasonable inquiry is: (1) consistent with the discovery rules and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; (2) not interposed for any improper purpose such as to harass or increase unnecessary costs; and (3) not unreasonable, unduly burdensome, or expensive given the nature of the litigation.</p> <p><b>Jury Trial</b> Either side may request a jury. The request must be made within 10 days of the filing of pleadings that raise an issue triable by a jury. A bond or cash deposit must be filed in the amount and at the time set by the court. The party must pay a \$150 jury filing fee to the clerk of court.</p>	<p><b>Trials: Directed Verdict</b> Directed verdicts may be made by motion at the close of each other side's case when the opposing side showed no right to relief. The standard is that the facts and inferences are so overwhelmingly in favor of the moving party that reasonable persons could not reach a contrary verdict.</p> <p><b>JNOV</b> A judgment notwithstanding the verdict ("JNOV") must be filed within 7 days, exclusive of holidays and weekends, from mailing or service of noticing of signing of judgment. If there is no verdict, it must be filed within 7 days of jury discharge.</p> <p>A court will grant a JNOV if after considering all evidence in the light most favorable to the non-moving party, the facts and inferences are so strongly and overwhelmingly favor one party that reasonable persons could not reach a contrary result. However, if there is substantial evidence of such quality and weight that reasonable persons might reach a different result, the motion will be denied.</p>	<p><b>Judgments: Nullity</b> A final judgment shall be annulled for vices of form at any time if rendered against an incompetent not represented as required by law, against one not properly served and who has not waived objection to jurisdiction, against one whom a valid final default judgment has not been taken, or if the judgment was rendered by the court lacking SMJ. It can be brought at any time and asserted collaterally.</p> <p>A final judgment may be annulled for vices of substance by fraud or ill practices. They can be brought within 1 year of discovery. It must be asserted in a direct action, not collaterally.</p>

## Louisiana Code of Civil Procedure

<p><b>Appeals</b> An appeal may be taken from a final judgment, whether rendered after hearing or by default or from a judgment reformed in accordance with remitter or additur.</p> <p>An interlocutory judgment does not determine the merits. Appeal may only be taken from an interlocutory judgment if provided by law.</p> <p>Appellate courts may review both the law and facts in civil matters and only the law in criminal matters. Fact findings, whether by judge or jury, will not be disturbed unless there is manifest error.</p> <p>If the appellee desires the judgment to be modified, revised, or reversed in part by sustaining his objections to the judgment, he must answer the appeal within 15 days from the latter of the return day or lodging of the record of appeal.</p>	<p><b>Special Appeals</b> In a devolutive appeal, there may be execution of the judgment during the time the appeal is pending. They must be taken within 60 days of when motion for a new trial or when JNOV has elapsed or mailed.</p> <p>In a suspensive appeal, the execution of judgment during the time the appeal is pending will be suspended. The appeals must be taken within 30 days of when the time for filing a new trial or JNOV has elapsed OR the denial of a timely motion for a new trial or JNOV is mailed. The day for measuring commences the day after the act.</p> <p>Where the judgment is for a sum of money, security shall be equal to the amount of the judgment including interest until security is furnished, exclusive of costs.</p> <p>Plaintiff cannot enforce a judgment until the time for the appeal has lapsed, which is 30 days from the time of filing a motion for a new trial or JNOV has elapsed.</p>	<p><b>Money Judgments and Garnishment; Revival</b> To enforce a judgment against the immovable property owned by the defendant, the plaintiff must wait for tolling of time for taking a suspensive appeal; file and receive a writ of fieri facias ("fifa"); sheriff may seize the property under the writ; the sheriff files notice to debtor and occupants; notice of seizure with the recorded of mortgages; and then the property is sold at public action.</p> <p>Property in the hands of third parties, such as wages or bank accounts, may be garnished through use of garnishment under a writ of fifa. File writ of fifa; file the petition and interrogatories; serve the citation, petition, interrogatories, and notice of seizure on the garnishee; the garnishee has 15 days to answer; if he admits in answer has property indebted to him, the court orders garnishee to deliver property or pay the indebtedness.</p> <p>A money judgment may be revived at any time before it prescribes (10 years) by an interested party by the filing of an ex parte motion in the court and suit in which the judgment was rendered. The filing interrupts the 10-year prescriptive period. The motion must include an affidavit of by Judgment Creditor stating that the original judgment has not been satisfied. Service and citation are unnecessary. The court should issue a judgment reviving the original judgment. Notice of singing of the judgment must be mailed by the clerk of court to the judgment debtor's last known address.</p>	<p><b>Judgment Debtor Examination / Foreign Judgment</b> The judgment debtor rule is when an unpaid judgment creditor serves on the debtor, requiring him to disclose his assets. The motion must be filed in court where the judgment was rendered; The court will order the judgment debtor to appear with their financial records not less than 5 days from service and he will be questioned under oath. Failure to appear is punishable by contempt.</p> <p>One can seek recognition of a foreign judgment (another state, territory, or federal court) by ordinary process (i.e., by bringing an ordinary proceeding against the judgment debtor and have the foreign judgment recognized and made the judgment of a Louisiana Court.)</p> <p>Alternatively, one can seek to have the judgment enforced under the Enforcement of Foreign Judgments Act. The party must annex authenticated copy of foreign judgment to an ex parte petition and file affidavit with last known address of the judgment debtor and the judgment creditor; then the clerk sends notice to the debtor; 30 days after mailing, the judgment may be executed.</p>
--	---	---	--