

Introduction to 2026 Edition

The purpose of this Louisiana Civil Procedure Treatise is to help Louisiana attorneys stay abreast of legislative changes and judicial interpretations of the Louisiana Code of Civil Procedure by outlining revisions in a simple, easy-to-follow manner.

The treatise continues with the same general organization that details the codal language and case law regarding each of the codal articles relative to pre-trial, trial, and appellate procedure. Each section begins with the up-to-date codal language followed by commentary detailing the jurisprudential interpretations of the language of each article.

Noteworthy Statutory Amendments:

- The 2025 Louisiana Legislature adopted Mandatory Electronic Filing requirements that became effective January 1, 2026, with amendments to La. Code of Civ. Proc. Ann. 253, which provide that all filings with the clerk of court by an attorney shall “only be filed in person in paper form or transmitted electronically,” with some very limited exceptions.
- Under amended La. Code Civ. Proc. Ann. Art. 371, Louisiana attorneys are required to comply with the following two additional duties under penalties of contempt and disciplinary action:
 - An attorney shall not knowingly encourage or produce false evidence, including evidence that is artificially generated or altered by any means.
 - An attorney shall exercise reasonable diligence to verify the authenticity of evidence before offering it to the court.
- All references to “mental incompetents” have been removed by amendments to La. Code Civ. Proc. Ann. art. 684 and replaced by references to persons “fully interdicted” or “whose interdiction specifically restricts the procedural capacity to sue.”
 - La. Code Civ. Proc. Ann. art. 684 provides that the curator is the proper plaintiff to enforce such a person’s rights.
- La. Code Civ. Proc. Ann art. 863(F) was amended to state that no sanction may be imposed when a petition has been filed within 60 days of a prescriptive period but was then voluntarily dismissed or transferred to a court of proper venue within 90 days of filing.
- Pursuant to amendments to La. Code Civ. Proc. Ann. art. 927(A)(5), a peremptory exception of no cause of action may now be raised as to “one or more but fewer than all of the claims, demands, issues, or theories against a party” set forth in any type of pleading.
- La. Code Civ. Proc. Ann. art. 1201(C) was amended to allow waiver of the requirements for requesting service of citation by filing a contradictory motion under La. Code Civ. Proc. Ann. art.1672(B).
- If electronic service cannot be effected, La. Code Civ. Proc. Ann. Art. 1313(A)(4) was amended in 2025 to provide that service may be effected in accordance with any other provision of article 1313, such as by mail or by hand delivery.

- La. Code Civ. Proc. Ann. Art. 1551 was extensively amended, making several changes to the procedures governing pretrial and scheduling conferences:
 - Deadlines may be set for the filing of motions challenging an expert under Art. 1425(F), motions for summary judgment, motions in limine, and other pre-trial motions.
 - A party with reasonable suspicion that an opposing party's exhibits (or his own exhibits) have been falsified, including having been generated by artificial intelligence or altered by any other means, is required to raise those concerns in a pre-trial conference or hearing,
 - The court and parties are required to determine at a pretrial hearing whether any trial, motion, or exception hearing will be held by audio-visual means, and whether the presentation of any evidence or testimony will be by audiovisual means.
- La. Code Civ. Proc. Ann. art. 1702 was amended to clarify that the notice that must be sent prior to obtaining a default judgment may be given any of three ways:
 - Mailing the notice to the defendant by certified mail, in which case the plaintiff shall file the return receipt of the defendant or the attorney;
 - Utilizing the service of a commercial courier, in which case the plaintiff shall file the commercial courier's confirmation of delivery;
 - Actual delivery, in which case the plaintiff shall provide proof of the date, place, and manner of delivery.
- Both notice of a final judgment and notice of a signed final judgment may be delivered to an attorney or party in open court under La. Code Civ. Proc. Ann. Art. 1913 as amended in 2025, so long as the Clerk of Court files a certificate showing the date on which notice or judgment was delivered.
- La. Code of Civ. Proc. Ann. Art. 1914 was amended in 2025 to require that, when a judgment is granted or an exception is sustained under Article 1915(C), it "shall be reduced to writing if the court so orders" and either mailed to each party or delivered in open court, the latter of which shall constitute notice of judgment and be documented in the record.

Noteworthy Jurisprudential Developments:

- The type of notice required for holding someone in constructive contempt of court is demonstrated by *Lonesome Dove Dev. LLC v. Town of Abita Springs*, 409 So. 3d 741 (La. 2025), in which notice was emailed to the town attorney that the judge wanted to hold the mayor in contempt of court for allegedly not complying with a portion of a final judgment. The Louisiana Supreme Court found the notice was insufficient because it was not sent to the mayor himself in the same manner as a subpoena, as required by La. Code Civ. Proc. Ann art. 1314(B).
- The Fourth Circuit Court of Appeal found the district court had improperly denied an exception of improper cumulation in *Shalabi v. Nautilus Ins. Co.*, 416 So. 3d 842 (La. Ct. App. 4th Cir. 2025), in which the plaintiff filed a single action against two insurance

companies that insured two distinct properties, both of which suffered damages caused by Hurricane Ida because “no community of interest” existed.

- The reserving of a duplicate and identical copy of interrogatories and requests for production of documents without filing a motion to compel after the first discovery request does not qualify as a “step” in the prosecution or defense of the action that interrupts the abandonment period, according to the decision in *Turner v. Moreau*, 417 So. 3d 1105 (La. Ct. App. 1st Cir. 2025), writ denied, 420 So. 3d 41 (La. 2025).
- In *Dehart v. Jones*, 406 So. 3d 1157 (La. 2025), the Louisiana Supreme Court found that the plaintiffs did not abandon their claim against the defendant surgeon when they failed to take steps in the prosecution of their case against him during the pendency of their appeal from a partial summary judgment in favor of other defendants because they were prohibited from taking steps during that time.
- The Louisiana Supreme Court in *Foundation Elevation & Repair, LLC v. Miller*, 408 So. 3d 893 (La. 2025), revisited the “waiver of abandonment” doctrine under which a defendant was considered to waive his right to plead abandonment by taking an action after abandonment accrued that was inconsistent with the intent to treat the case as abandoned, and held that “the proper analysis of a defendant’s post-abandonment action is through principles of renunciation, not acknowledgement,” thus limiting abandonment to “a situation where a defendant takes an action that renounces the defense of abandonment by clearly or directly demonstrating his intent to proceed.”
- In *Bradford v. Acadian Ambulance Serv. Inc.*, 2026 WL 412214 (La. Ct. App. 4th Cir. 2025), the appellate court found that a district court’s denial of a motion to set aside a dismissal on the basis of abandonment was a final, appealable judgment with a special appeal deadline of 60 days from mailing of the order denying the motion to set aside or date the sheriff served the order of dismissal.
- The Louisiana First Circuit Court of Appeal found in *Early v. the Unopened Succession of Lolalisa Clark*, 2025 WL 820911 (La.Ct. App.1st Cir. 2026), that the succession representative appointed by the court, rather than the succession, was the proper defendant in an action to enforce an obligation of the deceased or his succession under La. Code Civ. Proc. Ann. art. 734.
- A \$2,000 sanctions award under La. Code Civ. Proc. Ann. Art. 863 for an attorney’s failure to make a reasonable inquiry before filing a second malpractice claim was affirmed in *Lejeune v. Fontenot*, 408 So. 3d 519 La. Ct. App. 3d Cir. 2025).
- The Louisiana Supreme Court in *Ratcliff Recovery Servs., LLC v. City Place Investors, LLC*, 406 So. 3d 1170 (La. 2025), clarified that the three types of exceptions have different purposes; that the exceptions cannot be used interchangeably; that an exception’s “true import,” rather than its title, controls its classification; and that a court errs by treating a peremptory exception as a “trojan horse” for an otherwise waived dilatory exception.
- Answering a certified question from the United States Fifth Circuit Court of Appeal, the Louisiana Supreme Court stated in *Kling v.*

Hebert, 378 So 3d 54 (La. 2024), that “[p]rescription is interrupted when a defendant knows or should know, prior to the expiration of the prescriptive period, that legal demands are made on him from the occurrence described in the petition.”

- Also regarding the interruption of prescription, the Second Circuit in *Leteff v. Estate of Yocum*, 56.672 La. Ct. App. 2d Cir. 2/25/26 2026 WL 516238 (La. Ct. App. 2d Cir. 2026), found that prescription is interrupted by acknowledgement of a debt or obligation, which erases the time that has accrued and commences prescription anew from the date of the interruption.
- *Res judicata* did not bar a wife’s action against her husband’s former employer for her own damages caused by her asbestos-related lung cancer despite the fact her husband had previously successfully sued the same employer for his mesothelioma damages because the parties were not the same, and they were not in privity with one another in *Craft v. Crowley Marine Servs., Inc.*, 399 So.3d 808 (La. Ct. App. 4th Cir. 2024).
- A party may not be allowed to oppose a succession proceeding unless he has a justiciable interest in doing so, which may be in the form of being named as an executor of the estate, an attorney for the succession, or an heir or legatee, according to *Succession of Fisher*, 25-363 La. Ct. App. 3d Cir. 4/15/26 2026 WL 215902 (La. Ct. App. 3d Cir.2026).
- The Louisiana Supreme Court in *ELA Group, Inc. v. Bradley Murchison Kelly & Shea, LLC*, 420 So.3d 680 (La.2025), found that a non-attorney representative of a corporate entity could properly file a legal claim on behalf of the corporation prior to obtaining legal counsel for the purpose of “attending to and caring for his own business, claims, or demands.”
- In *Nolaluna, LLC v. Crosby*, 421 So. 3d 125 (La.Ct. App. 4th Cir. 2024), writ denied, 418 So.3d 364 (La. 2025), the Fourth Circuit found that the district court had violated the requirements of La. Code Civ. Prov. Ann. Art. 966(D)(3) that Daubert challenges to summary judgment evidence be decided before summary judgment hearings by granting a Daubert challenge four days before a summary judgment hearing, then granting the summary judgment when it had essentially left the plaintiff with no recourse for obtaining another expert.
- The Fourth Circuit has held that a Louisiana court has no discretion to unilaterally dispense with the required 30-day notice of hearing for a hearing on a summary judgment established by La. Code Civ. Proc. Ann. Art 966(C)(1) without consent of the parties. *Garibaldi v. State Farm Mut. Auto Ins. Ins. Corp.*, 409 So. 3d 239 (La. Ct. App. 4th Cir. 2025).
- In *Bayou Constr. & Trucking Co., LLC v. Ohio Sec. Ins. Co.*, 25-0599 La. Ct. App. 4th Cir. 3/9/26 2026 WL 657035 (La. Ct. App.4th Cir. 2026), the appellate court found that when a party relies on circumstantial evidence in opposition to a motion for summary judgment, the evidence as a whole must exclude every other reasonable hypothesis with a fair amount of certainty, but that it does not have to negate every other possible hypothesis.
- The following two requirements for a petition in intervention filed within the 90-day extension period were set forth in *Rodriguez v.*

Am. Alternative Ins. Co., 397 So. 3d 1233 (La. Ct. App. 5th Cir.2024): (1) the intervenor must have a justiciable interest in, and connexity to, the principal action, and (2) the interest must be so related or connected to the facts or object of the principal action that a judgment on the principal action will have a direct impact on the intervenor's rights.

- The connexity requirement necessary for stating a cause of action was clarified by the Louisiana Supreme Court in *Ratcliff Recovery Servs., LLC v. City Place Investors, LLC*, 408 So. 3d 1170 (La. 2025), a case involving Hurricane Ida damage in which the defendant filed a third-party claim against its own property insurer that the appellate court found did not state a cause of action because it did not state that the insurer owed defense and indemnity coverage. The Supreme Court reversed, finding that the defendant alleged sufficient facts to state a third-party demand by asserting that it could not pay and that the insurer breached its contract and finding that the appellate court interpreted the connexity requirement too narrowly.
- In *Madden v. Fairburn*, 409 So.3d 747 (La. 2025), the Louisiana Supreme Court found that an amended petition filed by a plaintiff against her own UM insurer related back to the date she filed an original petition against the same UM insurer making different allegations concerning which driver was at fault in causing the accident that allegedly caused her damages.
- The Louisiana Supreme Court found in *Darouse v. P.J.'s Coffee of New Orleans, LLC*, 421 So. 3d 885 (La. 2025), that La. Code Civ. Proc. Ann.art.1201(C)'s requirement that plaintiffs request service within 90 days of commencing an action does not also require that the plaintiff pay all fees for service to process because the explicit language of the codal provision not address fees.
- In *Gaudet v. Mosaic Fertilizer, LLC*, 407 So 3d 842 (La.Ct. App.5th Cir. 2025), writ denied, 411 So. 3d 639 (La. 2025), the Fifth Circuit found that the district court did not abuse its discretion by failing to vacate or strike a subpoena duces tecum for compliance with the requirement of La.Code Civ. Proc. Ann. art. 1354(H) that it set forth the text of that codal provision.
- In *Manuel v. Cortez*, 25-321 La Ct. App. 3d Cir 4/15/26 2026 WL 468528 (La.Ct. App. 3d Cir. 2026), the appellate court found that the district court had violated the standards for granting a JNOV by imposing 100 percent liability on one driver, then reinstating the jury verdict that imposed 50 percent of the liability on each driver.
- At least two Louisiana circuit courts of appeal have held that "the filing of a motion for new trial seeking reconsideration of an interlocutory judgment cannot interrupt the 30-day period for filing an application for supervisory writs." *Verret v. Verret*, 26-0314 La. Ct.App. 1st Cir. 3/13/26 2026 WL 821705 (La.Ct.App.1st. Cir. 2026), quoting *carter v. Rhea*, 783 So. 3d 1025 (La. Ct. App. 4th Cir. 2001).
- One reason courts should annul a default judgment based on improper service is because proper citation is the cornerstone of all actions. *Go Green Disposal & Recycling, LLC v. Mabb Prod., LLC*, La. Ct. App. 4th Cir. 2/9/26 2026 WL 352986 (La Ct. App. 4th Cir. 2026).

- The First Circuit found in *Ragland v. Ragland*, 427 So. 3d 365 (La. Ct. App. 1st Cir. 2025), that parties generally have no right to appeal a consent or stipulated judgment.