

Significant Changes to Procedural Laws Effective January 1, 2022

Louisiana made changes to procedural rules that took effect at the start of the new year.

Defendants now have 21 days to file an answer to a petition after service of citation, instead of the previous 15-day period. La. C.C.P. art. 1001. If, however, a plaintiff files and serves a discovery request with the petition, the defendant has 30 days to file an answer. And, when an exception is filed prior to an answer and is overruled or referred to the merits, an answer shall be filed within 15 days after such overruling or referral, instead of the previous 10 days.

Louisiana also made significant changes to the default judgment procedure. The term “preliminary default” was eliminated. Beginning in 2022, if a defendant fails to answer within the time prescribed by law, the plaintiff must establish a prima facie case “by competent and admissible evidence” and prove proper service on the defendant. La. C.C.P. art. 1702. If the required showing is made, a default judgment may be rendered, provided notice that the plaintiff intends to obtain a default judgment is sent if required. *Id.*

If a party who fails to answer made an appearance of record in the case or contacted the plaintiff in writing concerning the action after it has been filed, notice of the intention to obtain a default judgment must be sent by certified mail to counsel of record for the party (or to the party if there is no counsel) at least seven days before a default judgment may be rendered. *Id.* Where neither of these situations applies, the plaintiff must send the notice by regular mail to the party who fails to answer at the address where service was obtained at least seven days before a default judgment may be rendered.

There are other changes to civil litigation procedures that are not addressed in this post. Businesses and their counsel should be familiar with these new procedures.

Louisiana Code of Civil Procedure article 1001:

<https://www.legis.la.gov/legis/Law.aspx?d=111105>

Louisiana Code of Civil Procedure article 1702:

<https://www.legis.la.gov/legis/Law.aspx?d=111285>

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