

**SHREVEPORT CITY COURT**

**GUIDE TO PRACTICE**

**SHREVEPORT CITY COURT  
GUIDE TO PRACTICE**

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## **SHREVEPORT CITY COURT**

### **GUIDE TO PRACTICE**

In order to assist litigants and attorneys using the Shreveport City Court, the court has created this “Guide to Practice”. This document is not meant to be a definitive statement of the law nor may it be cited to the court as support for any position. This document is merely a tool to be utilized to assist litigants and attorneys in access to the court. Legal citations are provided to assist litigants and attorneys in their quest to determine applicable law and procedure.

**SHREVEPORT CITY COURT**  
**Roster of Officials**

JUDGES

Division A – Judge Emily Merckle

Division B – Judge Brian H. Barber

Division C – Brittany Arvie

Division D. – Chief Judge Sheva Sims

Judicial Administrator – Terrell Myles

CLERK OF COURT

Clerk of Court – Bill Whiteside

**SHREVEPORT CITY COURT**  
**About The Court**

The Shreveport City Court is a court of limited jurisdiction. There are several limitations on what cases the court can hear. The first limitation is geographical. The Court can only hear matters arising within the boundaries of the City of Shreveport. Insofar as criminal cases are concerned, the Court can only consider misdemeanor cases. **LA. R.S. 13:1894** As to civil cases, the court can entertain cases where up to \$35,000 is in dispute. However, some type cases cannot be brought in the City Court, such as cases involving title to real property, cases involving the right to public office or position, cases involving civil or political rights, cases involving annulment of marriage, divorce, separation of property or alimony, matters of succession, interdiction, receivership, liquidation, habeas corpus or quo warranto proceedings, cases in which the state, city or other political corporation is a defendant, and matters concerning tutorship, curatorship, emancipation or partition proceedings. See **LA. C.Cr.P. 933(4), 4843, 4841 A & LA. R.S. 13:1952(21), 13:1894**

The Shreveport City Court is located at 1244 Texas Avenue. The court is open on all weekdays except holidays. The clerk's office is open from 8:00 AM until 4:30 PM. Court sessions begin at 9:00 AM and 2:00 PM. In criminal matters, defendants and witnesses should appear 30 minutes prior to court to confer with the City Prosecutor. Rules as to dress and conduct may be found in the Local Rules of the Court (Conduct, **Local Rule 12** & Dress, **Local Rule 13**). Rules for attorneys are found in **Local Rule 14**. There are no jury trials in City Court.

The Court maintains a web site at [ShreveportCityCourt.org](http://ShreveportCityCourt.org). Most information about the court can be found in that web site, including information about all cases pending in the court. If information cannot be found on the web site, calls relative to civil matters should be made to 318 673-5800, and calls relative to traffic or criminal matters should be made to 318 673-5830.

## **SHREVEPORT CITY COURT**

### **Violations Bureau**

The Shreveport City Court has established a Violations Bureau to enable defendants to dispose of traffic citations without appearing in court. This service is also offered on-line through the N-Court program.

When an individual receives a traffic citation, the citation contains a deadline to respond to the charge.

If the citation is for a charge which does not have a mandatory court appearance and the individual wishes to plead guilty to the charge, the individual has an alternative method of responding to the citation. The individual can come to the Violations Bureau prior to the date set for the court appearance, enter a guilty plea, and pay the standard fine plus costs. This will satisfy the charge and relieve the individual of any further obligation under the citation.

The option of entering a guilty plea and paying a fine on-line also exists. The individual should go to the City Court web site ([ShreveportCityCourt.org](http://ShreveportCityCourt.org)) and Online Portal Link. All necessary steps can be completed at that location.

Before going to the Violations Bureau, an individual receiving a citation might want to determine the amount of the fine and costs they will be facing. Usually, there is a delay between the time a citation is issued and the time when this information is available of from 6 to 10 days after issuance of the citation. After that time, the best and quickest way of determining this information is to go on-line at the court's web site [ShreveportCityCourt.org](http://ShreveportCityCourt.org). The individual could also call the court at 318 673-5830, but might experience a delay due to the volume of calls received by the court.

Many individuals would like to get the citation off their driving record. **Code of Criminal Procedure article 892.1** provides a way for this to be done. Under that article, the judge may order the defendant to complete an approved driver education, training, or improvement program and file a certificate of completion with the court. Upon filing of that certificate, the court may proceed to set aside the conviction and dismiss the charges. This remedy is also available to defendants who pay through the violations Bureau.

## SHREVEPORT CITY COURT EXPUNGEMENT

Many individuals who are arrested for a misdemeanor violation of the law wish to have the record of such arrest expunged. Under **LA. C.Cr.P. 971 (1)**, Expungement means removal of a record from public access but does not mean destruction of the record. Any individual interested in expungement should read **La. Code of Criminal Procedure Articles 971-996** carefully to determine if they are eligible for expungement, and, if so, how it can be accomplished.

One of the most frequent occasions which results in an individual seeking an expungement arises from the application of **LA.C.Cr.P. 894** by the judge. Under that article, when a defendant is convicted of a misdemeanor, other than criminal neglect of family or stalking, the judge may suspend the imposition of sentence and place the defendant on probation under such conditions as the court may fix. If at the end of the period of deferral the court finds that defendant has not been convicted of any other offense during that period and that no criminal charge is pending, the court may set aside the conviction and dismiss the prosecution. "The dismissal of the prosecution shall have the same effect as an acquittal". **LA. C.Cr.P. 894 B(2)** Under **LA. C.Cr.P. 976**, the defendant may make a motion for expungement of the arrest record since "prosecution has been instituted, and such proceedings have been finally disposed of by \* \* \* acquittal."

An individual seeking an expungement should be aware of the limitations found in **LA. C.Cr.P. 971-993** which make expungement unavailable in certain situations. For example under **LA. C.Cr.P. 977** for an arrest and conviction, an expungement shall occur only once with respect to any person during a five-year period, except in the case of a misdemeanor offense of operating a vehicle while intoxicated which may occur only once during a ten-year period." Another example of limitations of the availability of an expungement is under **LA. C.Cr.P. 977 C** – No expungement shall be granted if the conviction was for (1) a sex offense, (2) domestic abuse batters (3) stalking.

The law sets forth specific forms which must be used in seeking an expungement. These forms are found in **LA. C.Cr.P. 987-993**. Samples of these motions may be found on this web site in the forms section.

The fee for filing a motion for expungement is Three Hundred Fifty (\$350) Dollars. These fees are set forth in **LA. C.Cr.P. 983**. Once paid, such fee cannot be refunded. **LA. C.Cr.P. 983** However, **LA. C.Cr.P. 983** provides for waiver of fees for filing of the motion for expungement in certain situations by producing a certificate obtained from the district attorney that the applicant has no felony convictions and no pending felony charges. Waiver of fee is only available when the charges against the defendant were dismissed by the prosecutor or the defendant was acquitted after trial. If a defendant entered a guilty plea or was found guilty at trial, no waiver of fee is available. If a defendant is unable to afford the fee for expungement, such defendant may apply to proceed In Forma Pauperis. **LA. C.Cr.P. 983H**.

The expungement law requires the clerk of court to provide notice of the filing of a petition for expungement to certain parties. **LA. C.Cr.P. 979** These parties have up to 60 days to file an objection to the motion, and if an objection is filed, a hearing will be held. **LA. C.Cr.P. 980** Therefore, no action can be taken on an expungement motion until after 60 days have elapsed from the filing of the motion.

**SHREVEPORT CITY COURT  
BENCH WARRANTS FOR FAILURE TO APPEAR  
&  
BOND FORFEITURES**

When a defendant is arrested, the defendant is often released on bail upon the posting of a bond to ensure the defendant's appearance before the court whenever required. **LA. C.Cr.P. 311 et seq.** If the defendant fails to appear at the court hearing, a bench warrant for the arrest of defendant for failure to appear will be issued. Notice of the issuance of the bench warrant will go out to the defendant and all sureties. **C.Cr.P 334**

If the defendant is not arrested or surrendered to the court within 180 days from the Notice of the Bench Warrant, the prosecutor may institute proceedings to forfeit the bond. **LA. C.Cr.P. 349**

## SHREVEPORT CITY COURT CIVIL ACTIONS

Various type civil actions are brought in City Court. The Court has available a Small Claims Division (**LA. R.S. 13:5201 et seq & Local Rule 21**), which handles actions involving \$5,000 or less. However, civil actions are only placed in this small claims division on the specific request of the filer. The Court also entertains Eviction Actions (**LA. C.C.P. 4701 et seq. & Local Rule 22**) for removal of occupants to property that no longer have a right to be there. All other civil actions filed in the Court are handled as regular civil actions.

A regular civil action is initiated by the filing of a “Petition”, which is a demand for enforcement of a legal right. **LA. C.C.P. 891 et seq** The fee for filing a petition is Two Hundred and Twenty Three (\$223.00) Dollars. If an individual is unable to afford the cost of filing a civil suit, the individual may apply to proceed In Forma Pauperis without prepayment of costs. **LA. C.C.P. 5181**. Generally, a “petition” contains “a short, clear, and concise statement of all causes of action arising out of, and the material facts of, the transaction or occurrence that is the subject matter of the litigation”. The “petition” must also contain a plea for whatever relief is sought. **LA. C.C.P. 891 A** The “petition”, like all pleadings in a civil action, must comply with the procedural rules for pleadings. See **LA. C.C.P. 853-863 & Local Rules 15-20** To file a petition in a civil action, the attorney or litigant must pay the sum of \$223.00 . In addition, if service of process is to be made outside the City of Shreveport, there are additional fees depending on the location of the defendant to be served. To determine what the fees in civil matters will be, refer to the Civil Cost Sheet .

Once a “petition” has been filed, a “Citation” must be issued and served upon all defendants along with a copy of the “petition”, which is known as service of process. **LA. C.C.P. 1201 et seq** The court has no authority over any defendant until this service is made. It is the obligation of the plaintiff who filed the “petition” to insure that the service is made. The plaintiff must provide an address to the court where the Marshal can effect such service. If the address turns out to be insufficient, it is the obligation of the plaintiff to provide another

address. The civil action cannot proceed further until after service of process is made.

Once service of process is made, the defendant has ten (10) days to respond [unless defendant is served through the secretary of state whereupon fifteen (15) days are permitted]. **LA. C.C.P. 4903**

The response to a petition is an “answer”. **LA. C.C.P. 1001 et seq** However, there are several other pleadings which may be filed prior to filing the answer. A defendant may file “Exceptions” which are means of defense to retard, dismiss or defeat the demand in the petition. **LA. C.C.P. 921** There are three (3) kinds of “exceptions”: declinatory, dilatory and peremptory. See **LA.C.C.P. 921 et seq** When an exception is filed prior to answer, the delay for answering is extended until ten (10) days after a ruling on, or referral to the merits of, the exception. **LA. C.C.P. 1001**

The “Answer” shall admit or deny the allegations of the “petition”, state in short and concise terms the material facts upon which the defenses to the action asserted are based, and shall set forth all affirmative defenses. **LA. C.C.P. 1004** The answer shall also contain a prayer for the relief sought.

If service of process has been made and no “answer” is filed within the delays set by the law (including delays occasioned by the filing of exceptions), the plaintiff may pursue a judgment by default. Unlike actions in the State District Courts, no preliminary default is required. **LA. C.C.P. 4904 A** To secure a default judgment, plaintiff must produce relevant and competent evidence which establishes a prima facie case. **LA. C.C.P. 4904 B** In cases involving a sum due on open account, promissory note, negotiable instrument, or other negotiable instrument, proof may be submitted by affidavit and no proof of any signature on a promissory note or other negotiable instrument shall be required. **LA .C.CP. 4904 B** No hearings shall be held in these matters unless ordered by a judge. **LA. C.C.P. 4904 C**

In addition to the proof set forth above, a plaintiff must submit an original and at least one copy of a proposed judgment. **LA. C.C.P. 4904 C** The clerk of court shall certify that no “answer” or other pleading has been filed by defendant. **LA. C.C.P. 4904 C** The proof submitted, certificate of the clerk, and the proposed

judge shall be submitted to the judge for consideration and signing. A certified copy of the judgment shall be sent to the plaintiff. A copy of the judgment will be served upon the defendant (by mail if the defendant was personally served or by the Marshal if there was no personal service). **LA. C.C.P. 4905 & 1913**

Setting of a trial in a civil case is governed by **Local Rule 30**. The party should request a trial date from the clerk of court setting forth the estimated time of trial. The clerk will give the party a tentative trial date. The party shall have two (2) days to confirm the trial date. Once the trial date is confirmed, the clerk will send out a notice of trial.

### **CHECKLIST**

(Filing a Civil Action)

- Petition (with service information)
- Soldiers & Sailors Affidavit
- Filing fee of \$220

## SHREVEPORT CITY COURT EVICTIONS

When a landlord has a tenant that no longer has a right to occupy the premises, the method to get the tenant to vacate the premises is Eviction. Eviction in City Court is governed by the provisions of **LA. C.C.P. 4701 et seq.** and **Local Rule 22**. Anyone planning to file an eviction action in City Court should be familiar with those laws.

In order for a tenant to be evicted from any premises, the tenant must no longer have a right to occupy such premises. This is the basis for any eviction action.

Termination of a tenant's right of occupancy can occur in a number of ways. Probably the most common reasons for losing this right of occupancy would be expiration of the term of the lease (**Civil Code Article 2720**) or the failure to pay rent (**Civil Code Articles 2704 & 2013**). When either of these events occurs, the landlord is in a position to initiate eviction proceedings.

Non-Fixed Term or Reconducted Leases. When the lease is not for a fixed term or has become a reconducted lease (by permitting the tenant to stay in the premises after the term of a lease has expired), there is a requirement that a ten (10) day notice before the end of the month be given of the termination of the lease. (**Civil Code Article 2728 (2)**) Once the lease has been terminated by this notice, the landlord is in a position to initiate eviction proceedings. The ten (10) day notice of termination of the lease shall be considered as a notice to vacate. **LA. C.C.P. 4701**

Notice to Vacate. Prior to filing an eviction action, notice to vacate must be given to the tenant at least five (5) days before the date of filing, unless notice has been waived in the lease. **LA. C.C.P. 4702** A landlord must make sure they set forth the notice to vacate in their petition or set forth where in the lease the waiver of notice occurs. The court has determined that notice to vacate should be given within 30 days of the filing of an eviction action. A notice to vacate over 30 days old may be considered "stale", and the judge may order a new notice to vacate. **Local Rule 22**

Computation of Time. In computing the five (5) day delay, the day after delivering notice is counted as day one. Weekend days and holidays are not counted. Five (5) full days must pass after delivering the notice. An eviction petition may be filed on the sixth day. **LA. C.C.P. 5059**

Petition for Eviction. Evictions are initiated by filing a Petition for Eviction with the court. (**LA. C.C.P. 4731 & Local Rule 22**) The court has prepared a sample form which may be used in filing an eviction. See APPENDIX OF FORMS. The court also has an “information sheet” with information the court needs to process the eviction. This should be submitted with each eviction petition. Of course the landlord can prepare their own form as long as it complies with the requirements of the law.

Rule to Show Cause. Upon filing of the petition, a rule to show cause why possession should not be delivered to the landlord will be issued to and served upon the tenant. **LA. C.C.P. 4731** The date set for trial of this rule to show cause must be set at least three (3) days after service of the rule. **LA.C.C.P. 4732 A** If the tenant has abandoned the premises or his whereabouts are unknown, the rule to show cause may be tacked on the door of the premises, and this will be equivalent to personal service. **LA. C.C.P. 4703**

Trial. At the trial of the rule to show cause, both the landlord and the tenant may present any evidence they have supporting their position. If the tenant fails to answer or appear, or if the court finds the landlord entitled to relief, a judgment of eviction shall be rendered. **LA. C.C.P. 4732**

Warrant for Possession. If the tenant does not comply with the judgment of eviction by 5:00 PM on the first non-weekend or non-holiday day following the rendering of the judgment of eviction, the court shall issue a warrant of possession directing the marshal to deliver possession of the premises. **LA. C.C.P. 4733 & Local Rule 22 (2)** The fee for getting a warrant of possession is \$30.00.

Upon issuance of the warrant of possession, the marshal will contact the landlord and set up a time to go to the premises. It is to be remembered that it is the obligation of the landlord, not the marshal, to move any items out of the premises or to have someone available to do so.

Voluntary Dismissal of an Eviction Proceeding. If a landlord wishes to voluntarily dismiss a pending eviction action, the request for dismissal must be made in open court or in a written document filed with the court. See APPENDIX OF FORMS: Petition for Eviction, Order to Show Cause, Court Information Sheet & Soldier's & Sailor's Relief Act Affidavit.

### **CHECKLIST**

- Petition with proposed order to show cause (& with service information)
  - o Vacancy Notice or waiver in lease
  - o Lease
  - o Authority of agent (if filed by other than the owner)
- Soldiers & Sailors Affidavit
- Information Sheet
- Filing fee of \$150.00

## SHREVEPORT CITY COURT SMALL CLAIMS

Louisiana law permits city courts to establish small claims divisions. **LA. R.S. 13:5200** The Shreveport City Court has established a Small Claims Division. **Local Rule 21**

A plaintiff may file an action in the Small Claims Division as long as the amount in dispute does not exceed \$5,000. **LA. R.S. 13:5202 A** Small claims actions may have no more than 10 plaintiffs in any one case, and no class actions may be filed in the Small Claims Division. Otherwise, a plaintiff may file any civil action in Small Claims Division that could have been filed as a regular civil action.

A suit filed in the Small Claims Division shall be subject to the same procedures as regular civil actions. **LA. R.S. 13:5203 A** However, no discovery procedures, such as interrogatories or depositions, are available in the Small Claims Division. . **LA. R.S. 13:5203 C** While exceptions and motions may be filed, it is the practice of the judges in Small Claims actions to refer all motions to the merits at trial rather than considering them in advance of the trial. In a Small Claims trial, the technical rules of evidence are relaxed, and all relevant evidence is admissible, including hearsay if the judge determines it is reliable. **LA. R.S. 13:5203 A** The judge will make a decision on the basis of the competent evidence before the court. **LA. R.S. 13:5203 A** There is no right of appeal in a decision in the Small Claims Division of the court. **LA. R.S. 13:5209**

The requirements of a Small Claims Petition are set forth in **Local Rule 21 B**. The fee for filing a small claims action is Ninety-One (\$91.00) Dollars. The court has made available a sample petition (see Small Claims Handbook), but a plaintiff may draft their own petition as long as it meets the requirements of the law. The fee for filing a Small Claims petition is \$91 with an additional \$50 for each defendant over one. There are additional charges for service of process for defendants to be served outside the City of Shreveport. See the attached Cost Sheet for the details of these costs.

Plaintiff must be must assure that a Citation and a copy of the petition be served upon each defendant. Citation or other process may be sent by certified mail and the signed return shall be considered as personal service. **LA. R.S.**

**13:5204 A** If service cannot be made in this manner, plaintiff may make service in the same manner as a regular civil action, which is normally by the Marshal. **LA. R.S. 13:5204 A**

Each Citation in a Small Claims Action shall contain a notice as follows: **LA. R.S. 13:5204 B**

ATTENTION

THIS LAWSUIT IS FILED IN THE SMALL CLAIMS COURT.

THE ORDINARY RULES OF EVIDENCE DO NOT APPLY IN SMALL CLAIMS COURT.

IF YOU LOSE IN SMALL CLAIMS COURT, YOU HAVE NO RIGHT TO APPEAL THE COURT'S DECISION.

YOU MAY HAVE THIS CASE TRANSFERRED TO THE REGULAR CIVIL COURT IF YOU WISH. TO DO SO YOU MUST FILE A WRITTEN NOTICE WITH THE CLERK OF THE SMALL CLAIMS COURT AND PAY THE APPROPRIATE TRANSFER FEE WITHIN TEN (10) DAYS OF RECEIVING THIS LETTER.

IF YOU ARE UNSURE OF WHAT TO DO, YOU SHOULD TALK WITH AN ATTORNEY ABOUT IT IMMEDIATELY.

Detailed instructions about Small Claims actions are found in the Small Claims Handbook available on the court's website [ShreveportCityCourt.org](http://ShreveportCityCourt.org)) or at the clerk's office. Sample forms are also available in that handbook.

#### **CHECKLIST**

- Petition with service information
- Statement of Claim
- Soldiers & Sailors Affidavit
- Filing fee of \$120.00

## **SHREVEPORT CITY COURT EXECUTORY PROCEEDINGS**

An Executory Proceeding is a process which provides for the seizure and sale of property without having to through the steps required in a normal civil action. It is normally available to enforce a mortgage or privilege against the property where there is an authentic act (i.e. a writing executed before a notary public and two witnesses **LA. C.C. 1833**) which contains a confession of judgment in the event that payments are not made when due. **LA. C.C.P. 2631 et seq.** The law provides that a “confession of judgment” occurs when the obligor in the document acknowledges the obligation secured and confesses judgment if it is not paid by maturity. **LA. C.C.P. 2632**

An Executory Proceeding is initiated by filing a petition. The fee for filing is Two Hundred Thirty-One (\$231.00) Dollars. The petition should meet all the rules of pleading set forth in **LA. C.C.P. 853-863 & LOCAL RULES 15-20**. Attached to the petition should be certain evidence, including: **LA.C.C.P. 2635-2637**

1. The note, bond or other instrument evidencing the obligation secured by the mortgage, security agreement or privilege;
2. The authentic act of mortgage or privilege on immovable property (i.e. real estate) importing a confession of judgment;
3. The act of mortgage or privilege on movable property importing a confession of judgment (which can be by authentic act or by private signature duly acknowledged)

If the petition and attachments show that plaintiff is entitled to relief, the court shall order the issuance of a writ of seizure and sale. **LA. C.C.P. 2638** The marshal shall seize the property and serve upon the defendant a notice of seizure. **LA. C.C.P. 2721** The marshal shall then advertise the property for sale in accordance with the law, such sale being at least 3 days after service of the notice of seizure on the defendant. **LA. C.C.P. 2722 & 2331**

A defendant may attempt to stop a sale by applying for an injunction to arrest seizure and sale. To be successful, the defendant must prove that the debt has been extinguished or is legally unenforceable, or prove that the procedure required by law for executory proceeding has not been followed. **LA. C.C.P. 2751-2754**

Prior to sale, the property must be appraised unless appraisal has been waived in document sued upon. **LA. C.C.P. 2723** The proceeds of the sale go first to cover the costs and then to satisfy the seizing creditor. **LA. C.C.P. 2373** After the sale, the Marshal shall file a return showing that the formalities have been complied with, stating the manner in which the writ was executed, describing the property sold, giving the name of the purchaser and the purchase price and showing the disposition of the funds. **LA. C.C.P. 2343**

#### **CHECKLIST**

- Petition with
  - Note, bond or other instrument
  - Act of mortgage or privilege importing a confession of judgment
- Soldiers & Sailors Affidavit
- Filing fee of \$250.00

**SHREVEPORT CITY COURT  
DEFICIENCY JUDGMENT**

A “Deficiency Judgment” is a judgment of the court for any amount remaining due to a creditor after final distribution of all proceeds from a seizure and sale under executory proceedings. **LA. C.C.P. 2771**

An action to seek a deficiency judgment can be initiated in one of two ways. The plaintiff may convert the executory proceeding to a normal civil action or the plaintiff may file a new civil action. **LA. C.C.P. 2772** Whichever method of seeking a declaratory judgment is chosen, the plaintiff must proceed thereafter in the same manner as any other civil action. The fee for this matter is One Hundred Eleven (\$111.00) Dollars. Plaintiff should review the section of this Guide to Practice on “Civil Actions” to ensure all procedural requirements are complied with.

**CHECKLIST**

(Conversion of Executory Proceeding)

- Motion to Convert Executory Proceeding to an Action for Deficiency Judgment with service information
- Filing fee of \$111.00

**CHECKLIST**

- Petition for Deficiency Judgment with service information
- Soldiers and Sailors Relief Affidavit

## SHREVEPORT CITY COURT JUDGMENTS OF OTHER COURTS

Judgments rendered by the City Court are enforceable in the city court. However, there may be instances when a judgment creditor with a judgment of another court may want to enforce such judgment in the City Court. There are procedures for this to be done.

If a creditor has a judgment from another court within the State of Louisiana, such judgment may be made executory in the City Court by following the procedures set out in **LA. C.C.P. 2782**. The Creditor needs to file a petition in conformity with **LA. C.C.P. 891** with a certified copy of the judgment attached. The fee for this is One Hundred and Forty-Six (\$146.00) Dollars. The City Court will then sign its own judgment making the judgment rendered in the other Louisiana court executory. **LA. C.C.P. 2782**. The judgment of the other Louisiana court will then have the same force and effect as if it had been issued by the City Court. See APPENDIX OF FORMS: Petition to Make Judgment of Louisiana Court Executory & Judgment Making the Judgment of Another Court Executory.

If a creditor has a judgment of a United States Court or a judgment of any state or territory of the United States, such judgment may also be made executory. However, the process is different from that used for judgments of Louisiana courts. In order to make the judgment of a non-Louisiana court executory, the creditor must file a regular civil action, with a duly authenticated copy of the judgment attached, seeking to have the judgment made executory. **LA. C.C.P. 2541**. The fee is One Hundred and Forty-Six (\$146.00) Dollars. The action must comply with all the regular procedures required for civil actions as set forth in the “Civil Actions” section of this Guide to Practice. See APPENDIX OF FORMS: Petition to Make Non-Louisiana Judgment Executory (**LA. C.C.P. 2541**)

Another alternative to making the judgment of a non-Louisiana court executory is under the provisions of **LA. R.S. 13:4241 et seq.** Under that statute, a petitioner may proceed “ex parte” (i.e. without the appearance of the judgment creditor) to make the judgment executory by filing a petition with a copy certified in accordance with the Acts of Congress & having it sent by certified mail to the judgment creditor. The fee is One Hundred & Forty-Six (\$146.00) Dollars. It is to be noted that no execution of the judgment can issue until thirty (30) days after mailing of the judgment. **LA. R.S. 13:4243 C**. See APPENDIX OF FORMS: Petition to Make Non-Louisiana Judgment Executory (**LA.R.S. 13:4242**)

### **CHECKLIST**

(Making a Louisiana Judgment Executory)

- Petition to Make a Judgment Executory
  - Certified copy of the judgment

### **CHECKLIST**

(Making a non-Louisiana Judgment Executory)

- Petition to Make a Judgment Executory with service information (**LA. C.C.P. 2541**)
  - Copy of the judgment certified in accordance with the Acts of Congress
- Soldiers and Sailors Relief Act Affidavit

Or

- Petition to Make Judgment Executory (**LA. R.S. 13:4241 et seq.**)
  - Copy of the judgment certified in accordance with the Acts of Congress
  - Information for mailing a certified copy of the petition to judgment debtor

## **SHREVEPORT CITY COURT REVIVAL OF JUDGMENTS**

When a judgment for a sum of money is rendered by the City Court, it is enforceable for ten (10) years from the date of its signing. **LA. C.C. 3501** However, this ten (10) year period can be extended if appropriate action is taken to revive the judgment prior to the expiration of that ten (10) year period.

In order to revive a judgment, a motion to revive the judgment must be filed prior to the expiration of ten (10) years from the date of the signing of the judgment. **LA. C.C.P. 2031** The fee for filing is Twenty Five (\$25.00) Dollars. The motion needs to be accompanied by affidavit of the creditor stating that the judgment has not been satisfied. Filing of a motion does not require issuance of a Citation or service of process, but is submitted to the court upon its filing. In rendering a judgment reviving the original judgment, the court may order the judgment debtor to pay additional court costs and reasonable attorney fees to the creditor. The revived judgment is executory for another ten (10) year period from the date of its signing. There is no limit to the number of times a judgment may be revived. **LA. C.C. 3501**

### **CHECKLIST**

- Motion to Revive Judgment
- Affidavit (non-satisfaction of judgment)
- \$25.00 fee

## SHREVEPORT CITY COURT

### EXECUTION OF JUDGMENTS

A judgment which is not voluntarily complied with must be enforced through court proceedings. Louisiana law does not permit self-help. Only the court can enforce a judgment.

A judgment setting forth that a defendant (hereinafter referred to as judgment debtor) owes a certain sum of money to a plaintiff (hereinafter referred to as judgment creditor) can only be enforced through the court. **LA. C.C.P. 2251** The judgment cannot be enforced until the delays for filing a “suspensive appeal” from the judgment has elapsed. **LA. C.C.P. 2252** A “suspensive appeal” is an appeal which prevents execution of the judgment during the appeal process and requires the judgment debtor to put up security. **LA. C.C.P. 2123 & 2124** If no suspensive appeal has been filed within the permissible delays, the judgment debtor can proceed with execution of the judgment for collection of the amount owed.

While it is not technically “execution” of the judgment, a judgment creditor may want to record the judgment in the mortgage records of the state court. This gives the judgment creditor a lien against any property owned by the judgment debtor.

Judgment Debtor Examination. **LA. C.C.P. 2451 et seq.** In order to determine what if any assets the judgment debtor, the judgment creditor may want to ask the judgment debtor questions about his or her finances. To accomplish this, the judgment should file a motion for judgment debtor examination. The fee for this is Eighty-Seven (\$87.00) Dollars. Upon filing of the motion, the court will order the judgment debtor to appear in court at least 5 days after service to answer any questions relative to his or her property and to bring with them any financial documents requested in the motion. **LA. C.C.P. 2453** The judgment debtor will be placed under oath and required to answer all questions relative to his or her financial situation. **LA. C.C.P. 2454** See APPENDIX OF FORMS: Petition for Judgment Debtor Examination Order for Judgment Debtor Examination .

There are several methods available for execution of a judgment. One method is having the property of the judgment debtor seized and sold under a writ of Fieri Facias. **LA. C.C.P. 2291 et seq.** Another method is garnishing the wages of the judgment debtor. **LA. C.C.P. 2411 et seq.**

Seizure & Sale. . **LA. C.C.P. 2291 et seq.** When a judgment debtor owns property, it is subject to seizure and sale to satisfy the judgment debtor's obligations. In some situations, such property is exempt from seizure under the law. Otherwise, the property of a judgment debtor is available for satisfaction of the debts of the judgment debtor. If a judgment creditor is aware of property owned by a judgment debtor, the judgment creditor may file an application for a Writ of Fieri Facias directing seizure and sale of the judgment debtor's property. The fee for this is Two Hundred Forty (\$240.00) Dollars. The application should indicate if any payments have been made toward satisfaction of the judgment since its issuance. The court will issue the Writ of Fieri Facias and the Marshal will seize the property. Upon seizure of the property, the Marshal shall serve written notice of the seizure upon the judgment debtor. The Marshal shall advertise the sale which cannot be before the passing of 3 non-holiday-or-weekend days after service of the notice on the judgment debtor. If a judgment creditor wants to retain a right to pursue his or her rights against the judgment debtor for any amounts not brought by the sale, the property must be appraised prior to the sale. (See Deficiency Judgment **LA. C.C.P. 2771**) After sale of the property, the Marshal distributes the proceeds of the sale; first to cover the costs of the sale, and then to satisfy the seizing creditor. **LA. C.C.P. 2373** See APPENDIX OF FORMS: Application for a Writ of Fieri Facias & Marshal's Information Sheet.

Garnishment. **LA. C.C.P. 2412 et seq.** When a third party owes money to the judgment debtor, the court can order the third party to pay it over to the judgment creditor. This is called garnishment. Where this most often is applicable is when a judgment debtor has a bank account or is employed. To initiate a garnishment, the judgment creditor must file a petition for garnishment. **LA. C.C.P. 2411** The fee for filing a garnishment is Two Hundred Thirty (\$230.00) Dollars. Attached to this petition, the judgment creditor must pose interrogatories to the third party relative to their indebtedness to the judgment debtor. A copy of the petition and interrogatories shall be mailed by the judgment creditor to the judgment debtor. **LA. C.C.P. 2412** The court will issue a writ of Fieri Facias which will be served on the third party along with the petition

and interrogatories. This service will effect a seizure of whatever property the third party has belonging to the judgment debtor. **LA. C.C.P. 2411** The garnishee must answer the interrogatories within 15 days. **LA. C.C.P. 2412 D** When the garnishee admits or is found at a hearing to having property of the judgment debtor, the court will order the funds paid over to the Marshal up to the amount of the indebtedness. **LA. C.C.P. 2415** When the garnishment is for wages, the court shall render a judgment setting forth how much the employer should pay each pay period to the judgment creditor. **LA. R.S. 13:3921 et seq.** See APPENDIX OF FORMS: Petition for Garnishment & Garnishment Order.

Forms. To assist litigants, the court provides a number of forms. It is to be remembered that these are not official court forms, but merely guideline suggestions to assist litigants. Any litigant is free to draft their own pleadings as long as they comply with legal requirements. Some of the available forms in the area of execution of judgments are as follows:

- Judgment Debtor Examination
  - Petition for Judgment Debtor Examination
  - List of documents to be produced for Judgment Debtor Examination
  - Sample questions for a judgment debtor examination
  - Proposed Order
- Seizure & Sale
  - Application for a Writ of Fieri Facias
  - Marshal's Information Sheet
- Garnishment
  - Petition for Garnishment
  - Proposed Order of Garnishment
- Making a judgment of another La. court executory & Garnishment
  - Petition
  - Proposed judgment making the other La. court judgment executory
  - Proposed order of garnishment

## EXECUTION OF JUDGMENTS CHECKLISTS

### Judgment Debtor Examination

- Request for Judgment Debtor Examination
  - Information for Service
  - List of possible questions to be asked & documents to be produced (optional)
  - Proposed order setting the judgment debtor examination

### Garnishment

- Petition for Garnishment
  - Information for Service
  - Interrogatories

### Making a Louisiana Judgment Executory & Judgment Debtor Examination

- Petition to Make a Judgment Executory
  - Certified copy of the judgment
  - Proposed Judgment Making the Judgment Executory
  - Proposed Order for Judgment Debtor Examination

### Making a Louisiana Judgment Executory & Garnishment

- Petition to Make a Judgment Executory
  - Certified copy of the judgment
  - Proposed Judgment Making the Judgment Executory
  - Proposed Order for Issuance of a Writ of Fieri Facias

## SHREVEPORT CITY COURT SUBPOENAS

A subpoena is an order of the court for an individual to appear before the court at a date and time set forth as a witness in the court proceedings. **LA. C.C.P. 1351 & LA. C.Cr.P. 731** A subpoena Duces Tecum orders the individual to appear before the court at a date and time set forth to act as a witness and to bring with them listed material. **LA. C.C.P. 1354 & LA.C.Cr.P. 732**

Subpoenas are issued by the clerk of court upon request of one of the parties. **LA. C.C.P. 731 & LA. C.Cr.P. 731** See Appendix of Forms, Request for Subpoena. It should be remember that a subpoena should be requested a sufficient amount of time prior to the date of appearance for service of the subpoena to be made upon the witness. The fee for having a subpoena issued and served in a civil case is Fifty (\$50.00) Dollars.

Service of a subpoena is made in the same manner as service of a Citation. **LA. C.C.P. 1355 & 1231 et seq.** Service should be either personal or domiciliary, and should be made by the marshal or private process server. **LA. C.C.P. 1355** Service on a party can be made through such party's attorney. **LA. C.C.P. 1355** The return of service should be filed with the clerk of court. If service is made by a private process server, the return should be notarized. **LA. C.C.P. 1355** See Appendix of Forms, Affidavit of Service. If a subpoena has been served and is to be re-issued, it may be sent by registered or certified mail. **LA. C.C.P. 1355.1**

There are different rules and limitations regarding subpoenas in civil and criminal cases. However, whenever a party wishes to have a subpoena issued, a written request for that subpoena should be filed with the clerk with all pertinent service information.

In civil cases a witness may be subpoenaed from anywhere in the State of Louisiana. **LA. C.C.P. 1352** However, if a witness resides outside the parish where the courthouse is located and is more than 25 miles from the courthouse, the witness cannot be compelled to attend unless the party requesting the subpoena first deposits with the clerk of court the fees set forth in **LA. R.S. 13:3661** (mileage at the rate of \$0.20/mi.; witness fee of \$25/day & hotel and meals expense at the

rate of \$5.00/day). **LA. C.C.P. 1352 & 1353** These fees are paid to the witness by the clerk of court immediately upon appearance. **LA. R.S. 13:3661 B (2)**

In criminal cases each defendant can subpoena up to six (6) witnesses at the expense of the City. **LA. C.Cr.P. 738** Any further witness subpoenaed by a defendant shall be at their own expense. **LA. C.Cr.P. 738** If the defendant is indigent, such defendant may apply to the court for additional subpoenas. **LA. C.Cr.P. 739** To subpoena a witness from out of state, **LA. C.Cr.P. 741** must be complied with.

#### **CHECKLIST**

- Request for Subpoena (w/ name & address of person to be subpoenaed)
- \$50.00 fee
  - NOTE: If person to be subpoenaed is outside of the City Limits, contact the clerk's office as additional fees will be required.

## SHREVEPORT CITY COURT APPEALS

Appeals from judgments of the City Court normally go to the 2<sup>nd</sup> Circuit Court of Appeals. However, appeal of a criminal judgment arising from a city ordinance is heard by the 1<sup>st</sup> Judicial District Court. Since some different rules apply to civil and criminal appeals, the two types of appeals will be discussed separately.

Appeals from Civil Judgments. Final judgments are appealable in all cases, except for those cases for which no appeal is provided by law (For example a final judgment in a case in the Small Claims Division **LA. R.S. 13:5209**). **LA. C.C.P. 2083** Appeals from judgments in city courts are appealable to the Court of Appeals (2<sup>nd</sup> Circuit). **LA. C.C.P. 2082 & 5001 A** In civil cases, there must be a written judgment signed by the judge. **LA. C.C.P. 1911** An appeal must be filed within 10 days of the date of the judgment (or from service of the notice of judgment when required). **LA. C.C.P. 5002** To appeal, a party must file a motion, either orally in court or in writing. **LA. C.C.P. 2121** The fee for an appeal of a civil judgment is \$425.00 (which includes the fee of the 2<sup>nd</sup> Circuit Court of Appeal). The clerk of court shall prepare an estimate of costs (Normally costs only include the \$425.00 fee mentioned earlier, plus estimate cost of the transcript), & mail it to the appellant & appellee. **LA. C.C.P. 2126** The return date of the appeal shall be 45 days from the date costs are paid (or 30 days if no transcript is needed) **LA. C.C.P. 2125**

Appeals from Criminal Judgments. Only final judgments which impose sentences are appealable. **LA. C.Cr.P. 912** An appeal of a judgment involving violation of a state statute will be heard by the Court of Appeal (2<sup>nd</sup> Circuit). **LA. C.Cr.P. 912.1 C & LA. R.S. 13:896 B** An appeal of a judgment involving violation of a city ordinance will be heard by the district court (1<sup>st</sup> Judicial District Court). **LA. R.S. 13:896 B** An appeal is initiated by filing an oral motion in open court or a written motion. **LA. C.Cr.P. 914 A** The appeal must be filed within 30 days of the rendition of the judgment. **LA. C.Cr.P. 914 B(1)** The return date for a criminal appeal is 75 days from the date the motion to appeal was granted. **LA. C.Cr.P. 915 A**

In cases on appeal to the 2<sup>nd</sup> Circuit, no bond is required for filing the criminal appeal. **LA. C.Cr.P. 911** The 2<sup>nd</sup> Circuit Court of Appeals charges a

\$450.00 fee for the filing of a criminal appeal. This fee is normally paid in the City Court at the time the motion to appeal is filed. Within 20 days, the appellant must not only pay the cost of the appeal to the 2<sup>nd</sup> Circuit Appeals Court, but also the estimated costs of preparing the transcript to the court recorder. **LA. C.Cr.P. 914.1 C (2)**

In cases appealed to the 1<sup>st</sup> Judicial District Court, there is no filing fee. However, the city court requires a bail bond equal to court costs and any fine in cases appealed to the district court. **LA. C.Cr.P. 912.1 C(2)** The district court will accept a disc containing recording of city court proceedings. There is no charge for this disc. If appellant wants a transcript of such proceedings, appellant must pay the estimated cost of the transcript to the court reporter within 20 days of receiving notice of the estimated cost of the transcript. **LA. C.Cr.P. 914.1 C(2)**

#### **CHECKLIST**

- Motion for Appeal
- Proposed Order for Appeal