Attorney Fees

Vitaliano v. Blackstock, 25-0038 (La. App. 4 Cir. 10/30/25), _ So. 3d ___, 2025 WL 3033717.

After being found in contempt for violating a joint-custody consent judgment, Cera Vitaliano Lonero opposed Christopher Blackstock's motion for attorney fees by filing exceptions of no cause of action and res judicata. She argued that his request citing La. R.S. 9:346 failed to state a cause of action, and that res judicata barred the claim because a prior judgment had been silent on fees. The trial court overruled both exceptions and awarded Blackstock $50,000 in attorney fees.

The 4th Circuit affirmed. Even though Mr. Blackstock cited the wrong statute, the court held that La. R.S. 13:4611 provided a valid remedy, and the earlier judgment's silence did not bar a subsequent request. The appellate court also affirmed the scope and amount of the award. Although the contempt and custody modification were pursued in separate pleadings, the trial court reasonably concluded they were linked. It further upheld the dismissal of Ms. Lonero's sanctions motion under La. C.C.P. art. 863, which lacked any specific factual allegations that Mr. Blackstock's motion for attorney fees was filed for an improper purpose.

Custody – Domiciliary Parent's Schooling Decision

Brue v. Brue, 25-1260 (La. 11/25/25), 423 So.3d 73

In this rare writ grant on a family law issue, the Louisiana Supreme Court vacated a trial court judgment that had ordered the parties' children to enroll in public school. Under the joint custody plan, Le Tu Tran Brue was designated the domiciliary parent and had chosen a hybrid schooling model that combined homeschooling with part-time attendance at a small private school. The trial court found the arrangement interfered with Russell Brue's custodial time and might inadequately support the children's suspected dyslexia. It therefore

ordered a change to public school.

The Louisiana Supreme Court reversed, holding that the trial court failed to give proper effect to the statutory presumption that the domiciliary parent's major decisions, including school choice, are in the best interest of the children. It noted that La. R.S. 9:335(B)(3) places the burden on the non-domiciliary parent to rebut that presumption and found no showing that the mother's choice was harmful or deficient. To the contrary, the trial court acknowledged that the children had been doing well academically. The court remanded for the trial court to consider more narrowly tailored remedies, such as clarifying the father's custodial time, rather than overruling the mother's educational decision. Three justices dissented and would have denied the writ.

Contempt

Boudreaux v. Boudreaux, 25-0338 (La. App. 3 Cir. 11/26/25), __ So.3d ___, 2025 WL 3290992.

Neil Boudreaux and Amy Carpenter were married in 2013 and divorced three years later. They have been "involved in continuous litigation with each other" ever since. In 2024, Carpenter moved to disqualify Boudreaux's counsel, which the trial court denied. The court then conducted a three-day trial on the parties' motions for contempt. Carpenter was found in contempt and cast with sanctions.

The appellate court addressed the disqualification issue first because reversal on that issue would have required Joseph Boudreaux to retain new counsel and retry the matter. Carpenter argued that she had previously consulted with Rebecca Hunter, who was now employed by the same firm representing Boudreaux. The appellate court affirmed the trial court's denial of the motion, finding that Carpenter failed to prove that an attorney-client relationship was ever formed with Hunter or that any preliminary discussion involved substantially related matters.

The court then upheld the trial court's finding that Carpenter was in contempt for repeatedly arriving late to custody exchanges and refusing to transport the child to extracurricular activities. It rejected her argument that the joint custody plan was too vague to enforce and found she could not retroactively invoke her domiciliary authority to avoid compliance. The panel also affirmed the trial court's denial of her contempt motion, concluding she failed to establish that Boudreaux violated orders regarding medical care, religious upbringing or phone communication.

Two aspects of the judgment were reversed. First, the trial court erred in removing the Plan's right-of-first-refusal provision *sua sponte*, where no party requested the modification and no material change in circumstances was shown. Second, the court reversed the order requiring both parties to attend co-parenting counseling, holding that La. R.S. 13:4611 authorizes such relief only for visitation — not custody — violations. The judgment was otherwise affirmed.

Matrimonial Agreements

Crow v. Crow, 56,445 (La. App. 2 Cir. 11/19/25), ___ So. 3d ____, 2025 WL 3223346.

Felicia Wilson Crow challenged the validity of a prenuptial agreement executed three days before her 2003 marriage to John Crow. She alleged error, fraud and duress, but failed to plead fraud or duress as affirmative defenses. The trial court excluded that evidence and granted Mr. Crow's motion for involuntary dismissal.

The 2nd Circuit affirmed. Although Ms. Crow claimed she believed the agreement preserved a community regime, the first page clearly stated it was a separation of property agreement. The appellate court found no evidence that she was misled, coerced or prevented from seeking legal advice. The trial court's finding that she failed to carry her burden was not manifestly erroneous.

Spousal Support

Delouche v. Delouche, 25-0179 (La. App. 3 Cir. 11/12/25), ___ So.3d ___, 2025 WL 3153077

Laura DeLouche sought to extend a 2020 stipulated judgment awarding her final spousal support. The judgment required Kenneth DeLouche to pay $4,000 monthly for 60 months and included two express contingencies: termination upon her death and an additional $1,000 per month if she became disabled.

Ms. DeLouche argued the judgment was modifiable because it lacked a non-modification clause. The 3rd Circuit disagreed, finding the inclusion of specific contingencies reflected the parties' intent to exclude other grounds for modification. Because the judgment resolved final support through bargained-for terms, res judicata applied. The trial court's judgment was affirmed.

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Louisiana Expands Its Protected Status Classifications

Conviction History

In 2018, New Orleans first addressed the use of criminal history in hiring through its "Ban the Box" ordinance, which seeks to prohibit arbitrary and unreasonable discrimination against individuals with felony convictions. New Orleans Code § 2-13 (2018). In June 2025, the City Council enacted an expanded version of its "Ban the Box" protections by establishing a clearer process for public employers to determine whether a conviction is job-related and by requiring an individualized assessment when a subsequent background check reveals a conviction. New Orleans Code § 2-13 (2025).

The ordinance states in pertinent part that "[N]o job application submitted prior to [an] interview shall inquire into an applicant's criminal history," and applicants "will be considered for employment opportunities based on the merits of their skills and experience related to the position." *Id*. at 1.

Effective June 12, 2025, the ordinance provides that public hiring departments shall not consider "[a]ny felony conviction that does not demonstrate a direct and specific nexus to the duties and essential functions of the position sought," and must evaluate:

(i) the nature and gravity of the offense; (ii) the time that has passed since the offense or completion of the sentence; (iii) the specific duties and responsibilities of the position; (iv) whether the applicant has multiple felony convictions; or (v) any mitigating factors, including evidence of restitution and rehabilitation on the part of the applicant.

Id. at 2-3.

When a public employer chooses not to hire an applicant because of a criminal conviction, the ordinance requires written documentation explaining the basis for the decision. Specifically, the hiring department must record "whether the hiring decision was based, in whole or in part, upon the applicant's criminal history" and, if so, "how the determination that a particular felony conviction demonstrated a direct and specific nexus to the duties and essential functions of the position sought was made," along with an explanation of how any mitigating information was evaluated. *Id*. at 4.

In October 2025, New Orleans expanded these protections further when voters approved an amendment to Article II of the Home Rule Charter. The amended provision now states that

"no law should arbitrarily and capriciously or unreasonably discriminate against a person because of birth, disability, sex, sexual orientation, gender identification, culture, language, social origin, **conviction history**, or political affiliations." Home Rule Charter of the City of New Orleans § 2-202 (2025). (emphasis added).

Military Status

During the 2025 Regular Session, the Louisiana Legislature enacted Act 100, which amended the Louisiana Employment Discrimination Law to add "military status" as a protected classification effective Aug. 1, 2025. La. S.B. 66, 2025 Reg. Sess. (Enrolled).

The amendment revised La. R.S. 23:332(A)(1) to make it unlawful for an employer to "[i]ntentionally fail or refuse to hire or to discharge any individual, or otherwise to intentionally discriminate against any individual with respect to compensation, or terms, conditions, or privileges of employment, because of the individual's … military status …." La. R.S. 23:332(A)(1).

Employers are likewise barred from practices that "limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities … because of the individual's … military status …." *Id*. at 332(A)(2).

As defined in La. R.S. 23:322(7) and La. R.S. 51:2603(10), "military status" includes active duty and reserve members of the U.S. uniformed services, veterans and dependents of service members who have received support for at least 180 days prior to the alleged discriminatory act.

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Second Deposition

Frederick v. St. Charles Surgical Hosp., LLC, 24-1537 (La. 04/29/25), 407 So.3d 616.

The plaintiffs deposed the defendant physician during the pendency of medical-review panel proceedings. The panel found no departure from any standard of care, following which the plaintiffs filed a lawsuit.

Several years later the plaintiffs filed a motion to compel a second deposition of the physician, contending that after the panel rendered its opinion, multiple developments had occurred that indicated false testimony was given during the first deposition. The defendant opposed the motion and requested a protective order. The district court granted the plaintiff's motion to compel the deposition. The court of appeal then granted the defendant's writ application and reversed the trial court ruling, finding that the circumstances that would allow a second deposition in a medical malpractice case did not exist in this case.

In a *per curiam* decision with three dissents, the Louisiana Supreme Court reversed the court of appeal and ruled: "The district court did not abuse its great discretion in granting plaintiff's motion to compel the second deposition of Dr. Waguespack." The court reversed the appellate court, reinstated the district court judgment, and remanded the case to the district court for further proceedings.

Abandonment

Dehart v. Jones, No. 25-0031 (La. 4/23/25), 406 So.3d 1157.

Ms. Dehart died in October 2008, shortly after experiencing complications following surgery. Her survivors filed a malpractice claim against Dr. Jones, perfusionist Falconer and Lafayette General Medical Center (LGMC), claiming that (1) Ms. Dehart had not given her informed consent, and (2) that her death was related to excessive bleeding. LGMC and Falconer filed motions for partial summary judgment. The trial court granted both motions and dismissed plaintiffs' claims. The appellate court vacated the judgment on the claim of excessive bleeding but affirmed dismissal on the claim of lack of informed consent.

Dr. Jones then claimed abandonment and moved to dismiss the case. He contended that, during the plaintiff's appeal of the partial summary judgment motion dismissing other defendants, the claims against him remained in the trial court, and, accordingly, the plaintiffs' appeals against the other defendants did not interrupt abandonment against him. The trial court granted the motion, and the court of appeal affirmed.

The Louisiana Supreme Court reversed, noting that while the claims against Dr. Jones were pending at the same time, the trial court dismissed the two co-defendants and "the claims here are very much entwined." The court found that "[b]ecause the claims against LGMC and Falconer affect plaintiffs' claims against Dr. Jones, the plaintiffs

could not have taken steps in the prosecution of the case against Dr. Jones until the appeal was resolved." Thus, under Louisiana Code of Civil Procedure article 2088, the appeal effectively stayed the matter against Dr. Jones during the appeal. The supreme court reversed the trial court and remanded the matter for further proceedings.

Missed Deadline to Tax Costs

Robinson v. Mitchell, 56,364 (La. App. 2 Cir. 8/27/25), 418 So.3d 1138.

The Robinsons, individually and on behalf of their minor child, pursued a malpractice action against Dr. Daryl Mitchell and his associated practice, later adding the Louisiana Patient's Compensation Fund (PCF) after settling with the physician defendants. In 2022 a Caddo Parish jury found that the defendant physicians breached the applicable standard of care and awarded Tara Robinson $500,000 in general damages under a loss-of-chance theory. An amended judgment directed that court costs to be assessed against the PCF would be determined by a rule to show cause.

The dispute over expert fees began when the PCF requested documentation supporting the plaintiffs' cost claims. Although plaintiffs' counsel provided a list of claimed costs in June 2023, she failed to supply invoices or affidavits despite repeated requests. After months of unproductive correspondence, the PCF sought a status conference. On Sept. 14, 2023, the trial court issued a clear scheduling order: plaintiffs were required to file any motion and supporting evidence to tax costs by Oct. 20, 2023. Plaintiffs filed nothing.

PCF timely filed its own motion on Nov. 2, 2023. Only on the day of the hearing did plaintiffs file a "Memorandum in Support of Costs"—without a motion and without having complied with the trial court's deadline. The trial judge refused to consider the memorandum or supporting affidavits and denied the plaintiffs' request to tax expert fees and costs.

On appeal, the plaintiffs argued that their delay was excusable and nonprejudicial, citing counsel's heavy trial schedule and asserting that the PCF already possessed the expert fee information from depositions and trial. They further argued that because the trial judge had observed the experts testify, the court could set expert fees using the trial record alone.

The PCF countered that plaintiffs had repeatedly ignored both informal requests and a formal, reasonable scheduling order. It maintained that the trial court acted well within its discretion in enforcing deadlines essential to orderly litigation.

The 2nd Circuit agreed with the PCF. Emphasizing that courts have wide latitude in taxing costs and that appellate review is limited to identifying an abuse of discretion, the court found none. The plaintiffs failed timely to file a motion to tax costs, failed to request an extension before their deadline elapsed and attempted to proceed on an untimely memorandum without a proper motion. Under these circumstances, the trial court acted within its authority to enforce its scheduling order and to refuse to consider evidence filed after the deadline.

Because the court found no abuse of discretion in the trial court's ruling on timeliness, it declined to reach the plaintiffs' alternative arguments. The judgment denying expert fees and costs was affirmed, with appellate costs assessed to the plaintiffs.

The decision underscores the broad discretion afforded to trial courts under Louisiana Code of Civil Procedure article 1920 and La. R.S. 13:3666, particularly when parties disregard procedural requirements governing the taxation of costs.

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Taxation

Tax Return Preparer Permanently Enjoined from Filing Tax Returns

Nelson v. Beals, BTA Docket No. 13970B (11/5/25).

Richard Nelson, secretary of the Louisiana Department of Revenue filed a suit at the Louisiana Board of Tax Appeals against Troy Beals, Jr., pursuant to La. R.S. 47:1574.2, to enjoin Beals from directly or indirectly acting as a Louisiana tax-return preparer, or filing, assisting in or directing the preparation or filing of any Louisiana tax returns, or other related documents or forms for any person or entity other than Beals's own personal tax return.

Beals is a Louisiana tax-return preparer who prepared returns on behalf of his customers and filed those returns with the Department. The Criminal Investigation Division of the Department discovered that Beals reported false information on his customers' tax returns. During the review of various state income-tax returns prepared and submitted by Beals, the Department discovered a pattern of fabricated expenses claimed on Form Schedule C – Profit or Loss from Business. Some of the state income-tax returns submitted claimed similar business descriptions and business expenses on various taxpayers' Schedule C forms. Beals used the same four numbers arranged in different orders to claim income and expenses on the Schedule C of multiple taxpayers.

The Department investigated multiple years of tax returns prepared and submitted by Beals. The Department's investigation showed the same pattern of large expenses claimed on the Schedule C as in prior years.

The Department initially issued Beals a tax-preparer noncompliance letter. After failure to correct the improper behavior, pursuant to La. R.S. 47:1574.2, the Department issued an order to cease and desist. Beals failed to comply. Pursuant to La. R.S. 47:1574.2(A)(1)(b), the Department sought an immediate and permanent injunction based on a showing that continued conduct by the tax preparer created an immediate threat to taxpayers.

Based on the above, the Department moved for summary judgment. The Board granted the Department's motion. The Board issued a judgment granting the injunctive relief the Department sought and ordering Beals to pay a penalty of $25 for each of the unlawful returns he filed after he was served with the cease and desist order, which totaled $1,450. The Board ordered that Beals immediately pay the penalty to the Department.

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BTA Rules That Participation In Status Conferences Is a "Sufficient Step" To Avoid Abandonment

Chevron USA, Inc. v Dep't of Rev., No. 13111D (La. Bd. Tax App. 7/29/25).

The Louisiana Board of Tax Appeals held that the participation of the taxpayer, Chevron USA, Inc., in multiple status conferences was sufficient to avoid abandonment under Louisiana Code of Civil Procedure article 561.

This matter originated from a petition for redetermination of a corporate income- and franchise-tax assessment that Chevron filed on Jan. 28, 2022. The Department of Revenue filed an answer on March 15, 2022. During the course of the litigation, the Board held a total of nine status conferences from April 20, 2022, through April 24, 2025, at which Chevron and the Department regularly appeared and during which the Board's administrator concluded that the matter was progressing toward a final resolution. The tenth status conference was scheduled for Oct. 22, 2025. However, less than a week after the ninth status conference, the Department filed an ex parte motion for an order of dismissal without prejudice for abandonment. The order of dismissal was signed by the Board. Chevron timely challenged the order of dismissal.

The Department asserted that neither party took any steps in prosecuting the case since the Department filed its answer to Chevron's petition in March 2022, and that pursuant to article 561 (which provides that an action is abandoned when the parties fail to take any step in prosecuting or defending a case in a trial court for a period of three years), the case had been abandoned by operation of law. The Department contended that the Board on its own initiative requested the status conferences and that actions by the Board are not considered "steps" in the prosecution or defense of an action for purposes of abandonment under article 561 because such actions are not "actions by a party."

Chevron filed an opposing motion to set aside the dismissal and for attorney's fees, arguing that it had participated in each of the status conferences, evidencing that it was actively prosecuting the case.

Chevron also argued that the Department was wrong in applying article 561 because the Board had not formally adopted the rule in its administrative proceedings and there appeared to be no reported administrative decisions indicating the Board had ever applied article 561.

The Board held that article 561 should be liberally construed in favor of maintaining the petition, and any "reasonable doubt" should be resolved in favor of allowing prosecution of the claim. In the case at issue, Chevron had evidenced an intent to prosecute the case by continuously appearing for status conferences, including the one held six days before the Department filed its ex parte motion to dismiss.

In its written reasons, the Board cited several cases where a requirement of strict technical compliance was rejected because the parties clearly demonstrated an intent to prosecute the case by, for instance, filing written requests for a status conference. In addition, the Board raised policy considerations in exercising its discretion in the matter, namely, that pro se litigants that have relied on the Board's stance on article. 561 would suffer if the Board took a different approach. The Board also explained that most status conferences are scheduled to allow parties sufficient time to perfect settlements. Based on the reasons above, the Board agreed with Chevron and granted the motion to set aside the dismissal.

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No Absolute Nullity for Missing Pre-Tax Sale Notice Under Revised Tax Sale Law

***Belaire Dev. & Constr., LLC v. Succ. of Shelton*, 25-0151 (La. 10/24/25), 421 So.3d 929.**

The Supreme Court of Louisiana recently held that the failure to provide pre-tax sale notice does not render a tax sale an absolute nullity for sales occurring after the 2008 revision of Louisiana Revised Statutes Title 47, Subtitle III, Chapter 5, effective January 1, 2009.

Belaire Development & Construction, LLC acquired tax-sale title to property in St. Martin Parish on or around June 6, 2017 due to delinquencies in the payment

of property taxes by the owners, Theodore Shelton, Sr. and Patricia Brooks Shelton. Belaire mailed a post-tax sale notice to Dehlice Shelton (Independent Executrix of the Succession of Theodore Shelton, Sr.) on August 11, 2020, and later filed a petition to quiet title on October 26, 2021. The petition was served on Shelton on June 6, 2022, to which Shelton responded on November 29, 2022, by filing a reconventional demand seeking to annul the tax sale for lack of adequate pre-tax sale and post-tax sale notice.

Shelton contended that the tax sale was absolutely null due to the lack of pre-tax sale notice, which she argued was required by due process. Belaire maintained that the 2008 revision eliminated the possibility of declaring a tax sale an absolute nullity for lack of pre-tax sale notice, emphasizing that post-tax sale notice was the critical requirement for tax sales after January 1, 2009. Belaire also argued that Shelton's reconventional demand was barred by prescription because it was not filed within six months of being "duly notified" in 2020.

The 3rd Circuit Court of Appeal found that Shelton's action to annul was not prescribed, as it was filed within six months of service of the petition to quiet title. The court further held that the failure to provide pre-tax sale notice could still potentially render a tax sale absolutely null and remanded the matter to the trial court for further proceedings.

The Louisiana Supreme Court held that the 2008 revision made post-tax sale notice the important notice for due process, and pre-tax sale notice deficiencies no longer constitute grounds for an absolute nullity in relation to a tax sale. The court observed that the purpose of the 2008 revision was to reorganize the prior law, encourage the payment and efficient collection of property taxes, satisfy the requirements of due process, provide a fair process for the redemption of tax sale property and otherwise encourage the return of such properties to commerce. The court also noted that several courts of appeal had since interpreted the 2008 revision to mean that tax sales may no longer be attacked as absolute nullities for failure to provide pre-tax sale notice, and that as long as post-tax sale notice of the right to redeem is provided more than six months before the end of the redemptive period, due process is satisfied.

The court also clarified that an action to annual brought as a reconventional demand in a quiet title action must be filed within six months of service of the petition to quiet title. Hence, the Supreme Court affirmed the 3rd Circuit's ruling that Shelton's reconventional demand was not prescribed. However, the court reversed the 3rd Circuit's finding regarding the absolute nullity of the tax sale and remanded the case for further proceedings.

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