

NEW ORLEANS BAR ASSOCIATION **BRIEFLY SPEAKING**

SUMMER 2011



2011 Bench Bar Conference

CHARTING A NEW COURSE

April 15-17, 2011 • Beau Rivage Resort and Casino • Biloxi, Mississippi

When Does the Time Period for an Appeal or Supervisory Writ Application Begin?

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When a Louisiana district court judge signs an appealable final judgment in a state court civil action, the delay to move for a new trial — which in turn affects the time allowed for filing a suspensive or devolutive appeal — begins to run the day after the clerk of court mails or serves written notice of the signing of the judgment.¹ The Code of Civil Procedure requires that the judge must sign every final judgment, that the clerk of the district court must mail notice of that signing in all contested cases, and that the clerk must file a certificate in the record showing the date of mailing of the notice and naming persons to whom the notice was mailed.² Until the clerk mails notice of signing of the judgment, the time periods to file for a new trial or to take an appeal do not begin to run, even if the parties have constructive or actual knowledge of the judgment.³

On the other hand, when a district court judge renders a non-appealable interlocutory order in open court, actual oral notice is sufficient to start the 30-day delay to apply to a court of appeal for a supervisory writ.⁴ Moreover, a motion for “new trial” or for “reconsideration” of the interlocutory ruling does not delay or extend the 30-day jurisdictional period for seeking supervisory review of the underlying ruling.⁵

Parties often leave a court hearing with different understandings or recollections of the judge’s statements from the bench. When a lawyer circulates a proposed judgment in compliance with

Unif. Dist. Ct. R. 9.5, opposing counsel sometimes objects to its wording because he or she recalls the court’s ruling differently. In particular, the judge’s oral comments during the hearing may not make it entirely clear whether the judge actually decided an interlocutory motion (so that notice was given) or whether the court took the motion under advisement, intending to give it further consideration, in which case the order must be reduced to writing.⁶

Comment (b) (2003) to Article 1914 implies that the record affords certainty because Articles 254(C) and 256 require the minute clerk to enter all interlocutory orders in the minutes of the court. Nevertheless, the minute clerk and each of the parties may sometimes disagree on what happened at the hearing and on the substance of the interlocutory ruling itself.

While a party can avoid these uncertainties by asking the judge within ten days of rendition in open court to reduce the oral interlocutory order to writing,⁷ a simpler rule would be that every interlocutory order must, like every final judgment, be reduced to writing and signed by the court and notice of signing mailed to all parties. That would not impose any greater burden on a district court because the court is already potentially subject to that requirement under Article 1914(B) and the district court rules require that the parties prepare and circulate a proposed written ruling.⁸

If a party believes that an interlocutory ruling requires immediate appellate

review through an application for supervisory relief, he or she should make a timely request of the district judge to set a return date for filing the writ application from the oral ruling and any subsequent written judgment memorializing it and also ask that a written judgment be signed. ■

Footnotes

1. La. Code Civ. P. arts. 1974 (delay to apply for a new trial), 1811(A)(1) (delay to move for a JNOV), 2087(A) (delay for devolutive appeal), and 2123(A) (delay for suspensive appeal).

2. La. Code Civ. P. arts. 1911, 1913(A) and (D).

3. See, for example, *Jackson v. Slidell Nissan*, 96-1017 (La. App. 1 Cir. 5/9/97), 693 So. 2d 1257, 1260 n.3.

4. La. Code Civ. P. art. 1914(A) (with exceptions listed in art. 1914(B)); Unif. Ct. App. R. 4-3.

5. See *Carter v. Rhea*, 2001-0234 (La. App. 4 Cir. 4/25/01), 785 So. 2d 1022, 1024-25; *Clement v. American Motors Ins. Co.*, 98-504 (La. App. 3 Cir. 2/3/99), 735 So. 2d 670, 672.

6. La. Code Civ. P. art. 1914(B).

7. La. Code Civ. P. art. 1914(B). A request for notice filed before judgment may also suffice. See *Gould v. Housing Auth. of N.O.*, 595 So. 2d 1238, 1241 (La. App. 4 Cir. 1992).

8. Unif. Dist. Ct. R. – Rule 9.5

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