

Recent Developments in Estate and Succession Planning

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A. Legislation

- 1. Small Successions** — Act 293 Effective August 1, 2026, Act 293 increases the small-succession ceiling for a Louisiana domiciliary from \$125,000 to \$200,000.

Authority: *2026 La. Acts No. 293 (HB 215); La. C.C.P. art. 3421(1), as amended.*

- a. The \$200,000 threshold is measured by gross value as of the date of death, before subtracting debts, liens, mortgages, funeral expenses, or administrative costs.
- b. Qualifying as a small succession does not necessarily mean that the succession may be completed by affidavit without judicial administration; the requirements for the selected procedure must still be satisfied.

- 2. Multiple Successions in the Same Proceeding** — Act 246 Effective August 1, 2026, new Article 2813 permits the successions of more than one deceased person to be opened in the same proceeding, regardless of the dates of death, if the court has jurisdiction over each succession.

Authority: *2026 La. Acts No. 246 (SB 140); La. C.C.P. art. 2813.*

- a. Jurisdiction under Article 2811 remains the first inquiry; Article 2813 does not create jurisdiction where none otherwise exists.
- b. The petition should plead the jurisdictional facts for each decedent, including domicile, the location of Louisiana immovable property, or another applicable basis.
- c. This procedure may reduce duplicate filings and costs when successive deaths appear in a chain of title.
- d. Any resulting judgment should state the transmission occurring at each death in chronological order so that the public records clearly reflect title.

- 3. Forced Heirs and Interdict Estate Planning** — Act 11 Effective August 1, 2026, Act 11 addresses limited high-net-worth situations involving donations by a curator and the forced portion of an adult forced heir with a disability.

Authority: *2026 La. Acts No. 11 (SB 127); La. C.C.P. art. 4566(C); La. R.S. 9:1026; La. R.S. 9:2374.*

- a. Court-authorized donations. New R.S. 9:1026 permits certain court-approved donations by a curator on behalf of an interdict whose direct or beneficial net worth is at least \$100 million.
- b. Required protection. The court must find that the donation will not materially impair the interdict's financial condition or deprive the interdict of sufficient funds for future needs and support.
- c. One-dollar forced portion. New R.S. 9:2374 limits the forced portion to one dollar for certain adult forced heirs who meet the statute's disability criteria and have direct or beneficial net worth exceeding \$50 million.

- 4. Trusts and the Age-65 Ad Valorem Exemption** — Act 448 Act 448 enacts R.S. 47:1717 to extend the age-65 ad valorem exemption to certain qualifying trust arrangements.

Authority: *2026 La. Acts No. 448 (HB 961); La. R.S. 47:1717.*

- a. The settlor must satisfy the constitutional eligibility requirements, have been the immediate prior owner, transfer naked ownership to the trust, retain a usufruct, continue to occupy the homestead, and otherwise remain eligible.
- b. The statute is targeted and does not extend the exemption to every trust.
- c. The act applies to taxable years beginning on or after January 1, 2028, and becomes effective only if the related constitutional amendment originating as HB 514 is approved statewide and becomes effective.

5. Modernization of Testament Formalities — Act 30 of 2025

- a. Effective August 1, 2025, Act 30 substantially revised Louisiana’s requirements for olographic and notarial testaments. The Act amended Civil Code Articles 1575, 1576, and 1581; enacted Code of Civil Procedure Article 2887; amended Article 2891; and repealed the former special testament provisions contained in Civil Code Articles 1577 through 1580.1. [2025 La. Acts No. 30 \(SB 49\)](#).
- a. Olographic testaments. A signature may now appear anywhere in the testament if it identifies the testator and demonstrates the testator’s intent to adopt the document as a testament. The date may likewise appear anywhere, may be clarified by extrinsic evidence, and is sufficient if it resolves the particular controversy for which the date is relevant.
- b. Notarial testaments. A notarial testament must still be in writing, dated, executed before a notary in the presence of two witnesses, and signed by the testator, the witnesses, and the notary. However, an attestation clause, publication of the testament, and the testator’s signature on every page are no longer conditions of validity.
- c. Testators unable to sign or read. Act 30 repealed the former specialized procedures for testators unable to sign or read and for testators who are deaf or deaf and blind. A testator who cannot sign may make a mark or direct another person to sign on the testator’s behalf and in the testator’s presence.
- d. Validity versus self-proving status. Although an attestation clause and signatures on every page are no longer required for validity, they remain important for making a notarial testament self-proving under Code of Civil Procedure Article 2887(A). A testament that does not satisfy those self-proving requirements may still be valid, but its proper execution must be established through the proof authorized by Article 2887(B).
- e. Retroactive application. Act 30 applies prospectively and retroactively to claims existing and pending on August 1, 2025, and to claims arising or actions filed thereafter. It does not revive prescribed claims or affect claims adjudicated on the merits by a final and definitive judgment before its effective date.
- f. Practical drafting guidance. Practitioners should continue using a complete attestation clause and obtaining signatures or initials on every page. These safeguards make the testament self-proving, simplify probate, and reduce factual disputes even though their absence no longer automatically invalidates the testament.

6. Items to Watch

- a. HCR 6 directs the Louisiana State Law Institute to study intestate succession proceedings and possible mechanisms to disinherit successors without a will, with a report due January 4, 2027.

- b. SCR 19 urges the Louisiana State Law Institute to study extended-duration trusts and report recommendations by March 1, 2027, including the competing concerns of interstate competitiveness and Louisiana civil-law policy.

B. Jurisprudence

1. **Olographic Testament Formalities — Succession of Laurie Maria Brocato** The Louisiana Supreme Court upheld a four-page handwritten testament under Civil Code Article 1575 as amended by Act 30.

Succession of Laurie Maria Brocato, No. 2025-C-00367 (La. Mar. 6, 2026); 2025 La. Acts No. 30.

- a. The document was written in a bound composition notebook, contained multiple dates, and bore the testator's signature at the top of the second written page.
- b. Amended Article 1575 requires only that the testament be entirely written, dated, and signed in the testator's handwriting and expressly subjects the document to no other form requirement.
- c. A signature may appear anywhere if it identifies the testator and evidences an intent to adopt the writing as the testament; the date may appear anywhere and may be clarified by extrinsic evidence when relevant.
- d. Multiple dates and a nontraditional signature location are not automatically fatal.
- e. The proponent must still prove the handwriting, date, signature, capacity, and testamentary intent when those issues are contested.
- f. Practitioners should preserve the original writing and investigate notebooks, letters, cards, photographs of writings, and papers that may bear on testamentary intent.

2. **Notarial Wills — Succession of Sara Ann Brocato** The Second Circuit considered competing notarial wills, the testator's visual impairment, and the 2025 repeal of special formalities for certain testators.

Succession of Sara Ann Brocato, No. 56,615-CA (La. App. 2 Cir. Nov. 19, 2025).

- a. The court recognized and applied the 2025 reform while the appeal was pending.
- b. New Article 1576 eliminates the attestation clause as a condition of validity for a notarial testament, while execution must still occur before a notary and two witnesses.
- c. The former special procedures for testators unable to sign or read were repealed.
- d. The January testament was admitted because the evidence supported capacity and showed that the document was read or sufficiently explained to reflect the testator's wishes.

3. **Final Judgments and the 2025 Testament Reforms — In re Neal** The Second Circuit applied the law in effect before Act 30 because the testament's validity had been adjudicated by a final and definitive judgment before August 1, 2025.

In re Neal, 425 So. 3d 242 (La. App. 2 Cir. Nov. 19, 2025); 2025 La. Acts No. 30, § 4.

- a. Act 30 generally applies prospectively and retroactively to claims existing and pending on its effective date and to later-arising claims and actions.
- b. The act does not revive prescribed claims or affect claims adjudicated on the merits by a final and definitive judgment before its effective date.
- c. Because the merits in Neal had already been finally adjudicated, the former rule requiring the testator to sign each page controlled.

4. Limitations on Powers of Attorney — Succession of John Lynch On rehearing, the Second Circuit held that an agent exceeded the durable power of attorney by creating a trust and transferring virtually all of the principal's assets to it shortly before the principal's death.

Succession of John Lynch, 415 So. 3d 936 (La. App. 2 Cir. 2025) (on reh'g), writ denied Feb. 3, 2026.

- a. The principal's wife and universal legatee had died about two weeks earlier, leaving the principal's succession intestate.
- b. Approximately four hours before the principal's death, an alternate agent created the trust and transferred nearly all assets to it, effectively emptying the succession.
- c. The court noted that some actions bordered on self-dealing and that the evidence did not show the principal initiated or understood the trust and transfers.
- d. The trust, assignments, and deeds were nullified, returning the assets to the succession.
- e. Drafting and administration point. Broad mandate language does not eliminate the need to confirm specific authority, fiduciary limits, the principal's knowledge and intent, and the consequences for the succession plan.

5. Removal of an Independent Administrator — Succession of John Kelley Martin

In ***Succession of John Kelley Martin, 56,115-CA (La. App. 2 Cir. 4/9/25)***, the Second Circuit affirmed the removal of a testamentary executor and independent administrator following nearly ten years of delay, inadequate records, an inaccurate descriptive list, failure to account, and transactions involving property the succession did not entirely own.

- a. Independence from routine court supervision does not diminish the representative's fiduciary duties under Code of Civil Procedure Article 3191.
- b. A succession representative must collect, preserve, identify, value, and properly classify succession property and maintain records sufficient to support an accounting.
- c. The representative improperly treated former community property as though it belonged entirely to the succession, even though the decedent owned only an undivided one-half interest following divorce.
- d. The representative's prolonged failure to conclude the succession, combined with deficient records and transactions that benefited an entity he would inherit, constituted convincing evidence supporting removal under Article 3182.

6. Testament and Trust Interpretation — Succession of William Brent Lumpkin

In ***Succession of William Brent Lumpkin, 24-683 (La. App. 3 Cir. 6/18/25)***, the Third Circuit interpreted a testament establishing separate legacy and marital trusts. The surviving spouse was entitled to the greater of 25% of the income or \$24,300 annually "from" a designated rental property. The court held that the payment could come only from income generated by that property and not from other estate assets.

- a. Interpretation of a testament is a question of law.
- b. When the testament's language is clear, the court must apply it as written and may not use extrinsic evidence to alter the disposition.
- c. Testimony from the drafting attorney concerning an intended guaranteed annual payment could not expand the payment source beyond the property actually placed in the marital trust.
- d. If a beneficiary is to receive a guaranteed minimum distribution regardless of trust income, the instrument should expressly identify whether principal or assets outside the designated trust may be used to satisfy the obligation.

7. Reserved Powers of Co-Settlers — *Succession of Clarence Donald Fox*

In *Succession of Clarence Donald Fox*, 56,105-CA (La. App. 2 Cir. 2/26/25), the Second Circuit held that one surviving co-settlor could not unilaterally change the successor trustee of an irrevocable trust when the reserved power belonged to the “Settlers” collectively.

- a. A settlor generally has no authority to modify an irrevocable trust unless that authority is expressly reserved.
- b. Because the trust reserved the power to the “Settlers” in the plural, the power could not be exercised by one co-settlor after the other co-settlor’s death.
- c. The court enforced the original successor-trustee designation and declared the attempted replacement null.