

## CHAPTER V

# THE LEGAL NEWSPAPER

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Statutory recognition of the newspaper as a “mouthpiece of the government” in certain circumstances inevitably required a statutory definition of a “newspaper”. Thus, the laws of Louisiana and most other states provide certain basic definitions and rules of eligibility for newspapers used for judicial advertisements and legal notices, just as legislatures define the minimum qualifications of persons elected or appointed to government office.

The applicable laws defining “newspaper,” the qualifications for newspapers used for judicial advertisements and legal notices, and the laws outlining the rate structure for publication notices are set forth below for reference purposes. They were substantially revised in 2014 to reflect the changing media landscape, particularly in Orleans and Jefferson Parishes.

### **R.S. 43:200. Definitions**

*As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section:*

- (1) *“Bona fide paying subscribers” means persons who have subscribed at a subscription rate which is not nominal, whether by mail subscriptions, purchases through dealers and carriers, street vendors and counter sellers, or any combination thereof, but shall not include free circulation, sales at token or nominal subscription price, and sales in bulk for purposes other than for resale for individual subscribers.*
- (2) *“General paid circulation” shall not include publications when one-half or more of all copies circulated are provided free of charge to the ultimate recipients, or are paid for at nominal rates by the ultimate recipients.*
- (3) (a) *“Newspaper” means a publication that during each year of the five-year period prior to the first publication of any legal or official notice therein:*
  - (i) *Has been published at regular intervals of not less than weekly.*
  - (ii) *Has been originated and published for the dissemination of current news and intelligence of varied, broad, and general public interest, including regular news coverage of local public meetings and events, and is not devoted to the interests of, or published for the entertainment or instruction of, or has a circulation restricted to, any particular sect, denomination, labor or fraternal organization, or other special group or class of citizens.*
  - (iii) *Has not been published primarily for advertising purposes and has not contained more than seventy-five percent advertising in more than one-half of its issues, excluding*

*separate advertising supplements inserted into but separately identifiable from any regular issue or issues.*

- (iv) Has maintained a general paid circulation to bona fide paying subscribers within the area the publication is required.*
- (b) For purposes of qualifications for publishing official proceedings, legal notices, or advertisements in the parishes of Jefferson and Orleans, the provisions of this Paragraph relating to a five-year requirement shall not apply to a daily newspaper with a general paid circulation when such newspaper has maintained a public business office in Orleans Parish for eight consecutive months prior to January 1, 2014.*
- (4) "Nominal rate(s)" means a price which is so small or slight that it is not considered real or substantial in comparison with what might reasonably be expected.*
- (5) "Office" means the newspaper's principal public business office and need not be the place at which the newspaper's printing presses are physically located. A newspaper shall have only one principal public business office; however, any newspaper with a principal business office in a parish adjoining Jefferson Parish which, within one year prior to June 1, 1986, has actually published official proceedings of any municipal corporation, police jury, or school board in Jefferson Parish shall be deemed to be published in an office physically located in both the parish where the newspaper maintains its principal business office and Jefferson Parish.*

**R.S. 43:201. Judicial advertisements and legal notices; parishes outside parish of Orleans**

- A. All parishes of the state, outside of the parish of Orleans, when advertisements or publication of notices are required to be made in relation to judicial proceedings, or in the sale of property under judicial process, or in any other legal proceedings of any kind, shall publish them in an English language newspaper published in an office physically located in the parish in which the proceedings are carried on. The newspaper shall be selected by the sheriff, constable, clerk, or other officer, as the case may be, who is charged with the conduct of the sale or proceeding. The official whose responsibility it is to select a newspaper shall make his selection in June of each year for a term of one year. If there is no newspaper published in the parish, all advertisements or notices shall be made by posting them at or near the front door of the courthouse, or the place used as such, and at two other public places in different parts of the parish.*
- B. The newspaper:*

- (1) *Shall have been published in an office physically located in the parish in which the body is located for a period of five years preceding the selection.*
  - (2) *Shall not have missed during that period as many as three consecutive issues unless caused by fire, flood, strike, or natural disaster.*
  - (3) *Shall have maintained a general paid circulation in the parish in which the body is located for five consecutive years prior to the selection.*
  - (4) *Shall have been entered in a U.S. post office in that parish under a periodical permit in that parish for a period of five consecutive years prior to the selection.*
- C. *The provisions of this Section relating to the five-year requirement shall not contravene any contract existing between any governing body and a newspaper on and prior to May 11, 1970; nor shall the five-year requirement herein be applied in assessing the qualifications of a newspaper which was in existence on May 11, 1970; nor shall any provision of this Chapter prohibit a publication being selected to publish judicial advertisements and legal notices in Jefferson Parish when the publication has actually published official proceedings within one year prior to June 1, 1986 of any municipal corporation, parish council, police jury, or school board within Jefferson Parish.*
- D. (1) *In Jefferson Parish, no provision of this Chapter shall prohibit a weekly publication being selected to publish judicial advertisements and legal notices if the publication has maintained a public business office for at least five consecutive months in the parish prior to June 1, 2006, and maintained a total circulation of at least twenty-five thousand for at least three consecutive years immediately prior to being selected.*
- (2) *Notwithstanding any provision of this Section, in Jefferson Parish a daily newspaper with a general paid circulation may be selected to publish judicial advertisements and legal notices if such newspaper has maintained a public business office in Orleans Parish for eight consecutive months prior to January 1, 2014.*
- (3) *In Jefferson Parish, the total circulation of every publication or newspaper shall be proved not less than annually by an experienced publication auditing firm prior to the selection of the publication or newspaper under this Section. The audit shall reflect the circulation of the publication or newspaper by parish, and shall be submitted as an attachment to any proposal by a publication or newspaper to publish judicial advertisements and legal notices in Jefferson Parish.*

**R.S. 43:201.1. Judicial advertisements and legal notices; alternative method of publication**

- A. *Notwithstanding any provision of law to the contrary, when advertisements are required to be made in relation to judicial proceedings, in the sale of property under judicial process, or in any other legal proceedings of whatever kind in a parish which contains a municipality with a population of three hundred thousand or more as determined by the latest federal decennial census, such advertisements and legal notices shall be published in a newspaper or other publication which (i) is domiciled in such parish, (ii) is published in the English language at least weekly, (iii) meets the requirements of R.S. 43:200(3)(a), (b), and (c), and (iv) has maintained a total circulation of at least thirty thousand for at least five consecutive years prior to it being selected. The newspaper or other publication shall be selected in June of each year, for a term of one year, by the sheriff, constable, clerk, or other officer, as the case may be, who is charged with the conduct of such sales requiring the advertisement.*
- B. *The total circulation of a newspaper or other publication selected to publish judicial advertisements under this Section shall be proved not less than annually by an experienced publication auditing firm prior to the selection of the newspaper or other publication. The audit shall reflect the total circulation of the newspaper or other publication, and a copy of the most recent audit shall be submitted as an attachment to any proposal by a qualifying newspaper or other publication to publish judicial advertisements and legal notices.*
- C. *Notwithstanding any provision of law to the contrary, when additional judicial advertisements are required to be inserted in an auxiliary journal in a parish with a population of three hundred thousand or more as determined by the latest federal decennial census, such auxiliary journal must have been published for at least seventy-five years prior to the insertion of the advertisement or publication, have been previously selected for no less than five years as an auxiliary journal for such parish, and not be eligible to be selected, pursuant to Subsection A of this Section, by the sheriff, constable, clerk, or other officer, as the case may be, of such parish to publish advertisements in relation to judicial proceedings, in the sale of property under judicial process, or in any other legal proceedings of whatever kind.*
- D. *The provisions of this Section shall supersede and control to the extent of conflict with any other provisions of law.*

**R.S. 43:202. Judicial advertisements in parish of Orleans**

- A. *In the parish of Orleans, when advertisements are required to be made in relation to judicial proceedings, or in the sale of property under judicial process, or in any other legal proceedings of whatever kind, the advertisement shall be inserted in a daily newspaper published in an office physically located in the parish of Orleans and published in the English language, and which has been published as a daily paper for at least five years prior to the insertion of the advertisement or publication. The newspaper shall be selected by the sheriff, constable, clerk, or other officer, as the case may be, who is*

*charged with the conduct of the sale. The responsible official selecting the newspaper to publish judicial advertisements and legal notices shall make his selection in June of each year for a term of one year. The newspaper selected shall meet the requirements of a newspaper as defined in R.S. 43:200(3) and shall have been entered in a U.S. post office in Orleans Parish under a periodical permit for a period of five years preceding its selection to publish legal advertisements and legal notices.*

- B. In the parish of Orleans, when advertisements are required to be made in relation to judicial proceedings, or in the sale of immovable property under judicial process, or in any other legal proceedings of whatever kind, additional judicial advertisements shall also be inserted in an auxiliary journal which satisfies the requirements of law pertaining to official journals of political subdivisions. The requirements of this Subsection shall not apply to the advertisement of movable property in any proceeding.*
- C. Should either of the notices as provided in Subsection A or B of this Section, but not both, contain errors or omissions which make it legally deficient to accomplish the requirements of notice as provided by law then in such event the advertisement which is legally sufficient to accomplish notice as provided by law shall be sufficient to fulfill the notice requirements of law notwithstanding that only one such notice was in proper form and published correctly.*
- D. Notwithstanding any provision of this Section, in Orleans Parish a daily newspaper with a general paid circulation may be selected to publish judicial advertisements and legal notices if such newspaper has maintained a public business office in Orleans Parish for eight consecutive months prior to January 1, 2014.*

#### **R.S. 43:209. Publication in supplement to newspaper valid**

*In all cases when it is required by law that orders, notices, or advertisements of any kind, by any public officer, shall be inserted in public newspapers, the publications and insertions shall be as valid when made in supplements to newspapers as if they had been made in the newspaper sheets.*

### **RATE STRUCTURE FOR PUBLICATION NOTICES**

#### **R.S. 43:205. Costs of legal advertisements; penalty for accepting rebate**

- A. In all parishes, the cost of all advertisements in relation to judicial proceedings, or in the sale of property under judicial process, or in any other legal proceedings of any kind, shall be a maximum of ninety percent of the commercial display advertising rate charged by the newspaper for a similar volume of business. Notwithstanding any law to the contrary, the cost of advertisements charged to a state agency when said publication is required by law in all parishes which do not contain a city of over one hundred thousand population shall not exceed the rate of five dollars per square of one hundred words or a fraction thereof. When the insertion contains*

*material to be set in tabular form, the tabulated matter shall be computed on the basis of the number of words of straight matter which would occupy identical space.*

- B. Notwithstanding any law to the contrary, the agate line shall be the unit or basis of measurement and charges for all advertisements placed by a state agency when said publication is required by law, including bidding advertisements in all parishes containing a city of more than one hundred thousand but less than three hundred thousand population. The printing shall not be let at over twenty-eight cents per agate line for each insertion.*
- C. Notwithstanding any law to the contrary, the agate line shall be the unit or basis of measurement and charges for all advertisements placed by a state agency when said publication is required by law, including bidding advertisements in all parishes containing a city of over three hundred thousand population. The printing shall not be let at a charge of over thirty-one cents per agate line for each insertion.*
- D. If the newspaper refuses to publish at the rate herein specified, the advertisements shall be published in the manner provided for in cases where there are no newspapers.*
- E. It is unlawful for any sheriff, tax collector, clerk of court, or any other public official, or any auctioneer, administrator, executor, tutor, trustee or other legal representative of any party in any judicial proceeding or other legal proceeding to demand or accept any part of the charge for the printing or publishing in the form of a rebate or otherwise from any newspaper or publisher of a newspaper.*
- F. Whoever is found guilty of accepting any rebate or any other form of payment shall be fined not less than two hundred and fifty dollars nor more than one thousand dollars or shall be imprisoned for not less than thirty days nor more than six months, or both.*

#### **ADDITIONAL PUBLICATION IN FRENCH PERMITTED**

##### **R.S. 43:204. Advertisements to be in English; duplication in French permitted**

- A. When advertisements are required to be made in relation to judicial process, or in the sale of property for unpaid taxes, or under judicial process or any other legal process of whatever kind, they shall be made in the English language and may in addition be duplicated in the French language.*
- B. State and local officials and public institutions are reconfirmed in the traditional right to publish documents in the French language in addition to English.*