

# **Liberia**

## **Civil Procedure Law - Title 1 - Liberian Code of Laws Revised**

### **TITLE 1**

---

#### ***Civil Procedure Law (1972)***

.....

#### **§ 1.7. Time.**

... 3. *Additional time for service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, five days shall be added to the prescribed period if the mail is sent to him within the Republic of Liberia, and ten days shall be added if mail is sent to him abroad. Whenever a certain period of time must elapse after service of a notice or paper on a party before the adverse party has the right to do some act or take some proceedings, and the notice or paper has been served by mail, five days shall be added to the prescribed period if mail is sent to the person within the Republic of Liberia, and ten days shall be added if mail is sent to him abroad.

#### **...§ 2.6. Cause of action accruing outside Republic.**

An action based on a right to relief which accrued outside the Republic cannot be commenced after the expiration of the time limited by the laws either of this Republic or of the state where the right to relief accrued.[\[14\]](#)

#### **...§ 2.71. Effect of war.**

1. *Right to relief accruing in enemy country.* When a right to relief accrues in a foreign country with which the Republic of Liberia or any of its allies is then or subsequently at war or in a territory then or subsequently occupied by the government of such a foreign country, the time which elapses between the commencement of the war or of such occupation and the termination of hostilities with such foreign country or of such occupation is not a part of the time within which the action shall be commenced; provided, however, that if the time within which the action would, in accordance with the provisions of this paragraph, have to be commenced expires less than six months after the termination of such hostilities or occupation, it shall be extended until six months after such termination.

*2. Party who is enemy alien.* When a person is unable to commence an action in the courts of this Republic because any party is an alien subject or citizen of a foreign country at war with the Republic or any of its allies, whether the right to relief accrued during or prior to the war, the time which elapses between the commencement of the war and the termination of hostilities with such country is not a part of the time within which the action must be commenced; provided, however, that if the time within which the action would, in accordance with the provisions of this paragraph, have to be commenced expires less than six months after the termination of hostilities, it shall be extended until at least six months after such termination.

*3. Claimant a non-enemy in enemy country.* When a right to relief accrues in favor of a person not entitled to the benefits of paragraph 2 who is a resident of or a sojourner in a foreign country with which the Republic of Liberia or any of its allies is at war or in a territory occupied by the government of such a foreign country, the period of such residence or sojourn during which the war continues or the territory is so occupied is not a part of the time within which the action must be commenced; provided, however, that if the time within which the action would, in accordance with the provisions of this paragraph, have to be commenced expires less than six months after the termination of such hostilities or occupation, it shall be extended until at least six months after such termination.<sup>[46]</sup>

### **...§ 3.38. Personal service of summons within Liberia.**

*...6. Upon a corporation.* Personal service shall be made upon a domestic or foreign corporation by reading and personally delivering the summons within Liberia to an officer, or managing or general agent, or to any other agent authorized by appointment or by statute to receive service of process, and, if the summons is delivered to a statutory agent, by, in addition, mailing a copy thereof to the defendant.

### **§ 3.39. Personal service of summons outside Liberia.**

The following persons may be served with summons outside Liberia in the same manner as if such service were made within Liberia and with the same jurisdictional effect as if the summons were delivered within Liberia:

(a) A person domiciled in Liberia;

(b) A person subject to the jurisdiction of the courts of Liberia under sections 3.1, 3.2, or 3.3 of this title.

Such service outside Liberia may be made by a ministerial officer of a court in the jurisdiction where service is made or by any attorney, solicitor, barrister, or equivalent who is duly qualified to serve a summons in such jurisdiction.<sup>[61]</sup>

### **...§ 4.1. Actions tried in county of residence of party.**

...3. *Definition of residence.* A party resident in more than one county or in more than one magisterial area, town, or city shall be deemed a resident of either county, and of either magisterial area, town, or city. An executor, administrator, trustee, committee, or guardian, or receiver shall be deemed a resident of the county of his appointment as well as the county in which he actually resides. A corporation organized under the laws of the Republic of Liberia or a foreign corporation doing business there shall be deemed a resident of the county and of the magisterial area, town, or city in which its principal office or other recognized office is located. An unincorporated association or partnership shall be deemed a resident of any county and of any magisterial area, town, or city in which an officer of the association suing or being sued or partner suing or being sued resides or in which the association or partnership has its principal office. In an action by an assignee for a sum of money, other than an assignee for the benefit of creditors or a holder in due course of a negotiable instrument, the assignee's residence shall be deemed the same as that of the assignor at the time of the assignment.<sup>[70]</sup>

#### **§ 5.17. Corporations.**

Any corporation, domestic or foreign, has the capacity to sue or be sued in Liberian courts, subject, however, to the provisions of the Associations Law; and any registered cooperative society has the capacity to sue or be sued in Liberian courts, subject, however, to the provisions of the Associations Law.<sup>[86]</sup>

#### **§ 7.11. Grounds for attachment.**

An order of attachment may be granted in any action where the plaintiff has demanded and where there is reasonable ground for believing that he would be entitled, in whole or in part, or in the alternative to a money judgment against one or more defendants, when

- (a) The defendant is a foreign corporation or not a domiciliary of the Republic; or
- (b) The defendant is domiciled in the Republic and cannot be personally served despite diligent efforts to do so; or
- (c) The defendant, with intent to defraud his creditors or to avoid service of summons, has departed or is about to depart from the Republic, or keeps himself concealed therein; or
- (d) The defendant, with intent to defraud his creditors, has assigned, disposed of or secreted property, or removed it from the Republic or is about to do any of these acts; or
- (e) The action is one for a money judgment enforceable under subchapter B of chapter 44.

The definition of the term money judgment in section 41.1 is applicable to this section. [\[129\]](#)

#### **§ 8.1. Form of papers.**

...2. *Language.* Each paper served or filed shall be in the English language which, where practicable, shall be of ordinary usage. Where an affidavit or exhibit is in a foreign language, the certified copy of the original shall be annexed to the paper with which it is served or filed, accompanied by an English translation and an affidavit by the translator stating his qualifications and that the translation is accurate.

#### **§ 9.5. Pleading special matters.**

...5. *Judgment.* In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

#### **§ 11.6. Voluntary discontinuance.**

5. *Costs of previously discontinued action.* If a plaintiff who has discontinued an action in any court, domestic or foreign, commences another action based upon or including the same claim against the same defendant, the court, upon motion by the defendant, may make such order for the payment of costs of the action previously discontinued as it may deem proper and may stay the proceedings in the subsequent action until the plaintiff has complied with the order. [\[205\]](#)

#### **§ 11.8. Tender.**

4. *Validity of tender.* The validity of a tender, for the purpose of this section, is unaffected by the place where made, unless a place for payment is specified in the contract, or by the debtor's request for a bill or receipt for the amount tendered, but no tender made before the obligation has become due is valid under this section. It may be made in legal tender or by certified check and is kept good if the debtor is able, during the entire period between the tender and the payment into court, to pay the creditor an equivalent sum of money on demand. The payment into court may be from any funds available to the debtor. Tender and payment into court shall not be deemed an admission of the claim involved and shall not be made known to the jury. Where the allegation of tender or its validity is in question, the issue shall be determined by the court outside the presence of the jury. [\[207\]](#)

#### **§ 13.2. Testimony of witness for action in another jurisdiction.**

When under any mandate, writing, or commission issued out of any court of record in any other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement, it is required to take the testimony of a witness or witnesses in

the Republic of Liberia, witnesses may be compelled to appear and testify in the same manner and by the same process as may be employed for the purpose of taking testimony in actions pending in Liberia. The Circuit Court shall make any appropriate order in aid of taking such a deposition.<sup>[214]</sup>

### **§ 13.3. Depositions pending action.**

*1. Oral or written questions.* If the deposition is to be taken within Liberia, the examination shall be conducted only by oral questions. If the deposition is to be taken outside Liberia, the examination shall be conducted only by written questions.

*2. Application to court.* If an action has been commenced, any party may apply to the court, on notice, for leave to take the deposition of a person to secure evidence in support of a claim or defense in the action.

*3. Procedure when deposition to be taken within Liberia.* On the granting of an application made under paragraph 2 for leave to take a deposition within Liberia, the court, acting under the provisions of section 13.7, shall appoint a commissioner to take the deposition. The moving party shall give to every other party in the action three days' notice of the taking of the deposition, unless the court permits a shorter period. The notice shall be in writing, stating the time and place for taking the deposition, the name and address of each person to be examined, if known, and, if any name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

*4. Procedure when deposition to be taken outside Liberia.* If the person to be examined is outside Liberia, the party desiring his deposition shall, at the time of applying for leave of court in accordance with paragraph 2, file with the clerk of the court in which the action is pending written questions to be put to the deponent. On granting of an application for leave to take such a deposition the court, acting under the provisions of section 13.7, shall appoint a commissioner or issue letters rogatory. A magistrate or justice may not appoint a commissioner to take a deposition outside Liberia or issue letters rogatory. In an action in such a court, a party desiring to secure a deposition outside Liberia shall apply to the Circuit Court to which an appeal from the magistrate's or justice's court would lie, and such court may issue the commission or letters rogatory and stay the proceedings in the court below until the deposition has been secured. Notice of the taking of the deposition together with a copy of the written questions shall be served on every other party to the action at least fourteen days before the taking is to occur. The notice shall state the name and address of the person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within four days after receiving service of notice, a party may serve written cross-questions upon every other party. A copy of the notice and copies of all written

questions shall be delivered by the party taking the deposition to the officer designated in the notice: The officer shall proceed promptly to take the testimony of the witness in response to the written questions and to prepare the deposition. The questions shall not be revealed to the prospective deponent in advance of propounding them at the taking of the deposition. [\[215\]](#)

#### **§ 13.7. Persons before whom depositions may be taken.**

...2. *In foreign countries.* In a foreign country depositions shall be taken (1) on notice before a charge d'affaires, secretary of an embassy or legation, consul general, consul, vice consul or consular agent of Liberia, or (2) before such person or officer as may be appointed by commission or under letters rogatory. A commission or letters rogatory shall be issued only when necessary or convenient on application and notice, and on such terms, and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed "To the Appropriate Judicial Authority in (here name the country)."

#### **§ 13.8. Conduct of examination and preparation of deposition.**

3. *Translation of questions and answers into foreign language.* If the deponent to be examined does not understand and speak the English language, the court shall appoint a translator to translate all questions and answers into the language which he understands and speaks.

#### **§ 16.31. Grounds for issuance of writ of quo warranto.**

Quo warranto is a special proceeding which may be instituted on any of the following grounds:

(a) Against a person who usurps, intrudes into, or unlawfully holds or exercises within the Republic a franchise or a public office or an office in a domestic corporation;

(b) Against a public officer or officer of a corporation who has done or permitted an act to be done which by law works a forfeiture of his office;

(c) Against one or more persons who act as a corporation within the Republic without being duly incorporated, or exercise within the Republic any corporate rights, privileges, or franchises not granted them by law; or

(d) Against a foreign corporation which exercises within the Republic any corporate rights, privileges, or franchises not granted to it by law. [\[256\]](#)

#### **§ 16.62. Penalty for refusal to produce the body.**

If a defendant upon whom a writ of habeas corpus has been duly served refuses or neglects to produce the body and to make a full and sufficient report at the time

and place named in the writ and offers no sufficient excuse for such refusal or neglect, the court or judge before whom the writ is returnable shall, upon proof of the service thereof, forthwith issue a writ of arrest against the defendant. The defendant shall immediately be brought before the court or judge who issued the writ and shall be by it or him committed to the jail of the county in which such court or judge has jurisdiction. The defendant shall not be allowed any liberties of the jail (such as receiving food or other comforts from the outside) until he makes an adequate report and complies with all the orders made by the court or judge concerning the prisoner. If the disobedience is on the part of the sheriff, the writ of arrest shall be directed to a deputy sheriff or to some other person who shall act as sheriff during the imprisonment of the sheriff. [\[274\]](#)

### **§ 25.1. Judicial notice of law.**

*1. Public law of Liberia.* Every court of the Republic of Liberia shall without request take judicial notice of the Constitution and of the public statutes and common law of the Republic.

*2. Private law of Liberia and foreign law.* Every court may take judicial notice without request of private acts and resolutions of the Liberian Legislature; ordinances and regulations of officers, agencies, or governmental subdivisions of Liberia; and the laws of foreign countries or their political subdivisions. If the court does not take judicial notice of any such law, it shall be an issue to be decided by the court, but the party relying on such law shall give each adverse party notice of his intention to rely on it. Notice shall be given in his pleadings, or at or before the pretrial conference, or at least ten days before trial when there is no pretrial conference; but the court may require other notice. Whether a law is judicially noticed or proof is taken, every matter specified in this paragraph shall be determined by the judge or referee and included with his conclusions of law or charged to the jury. Such findings or charge shall be subject to review on appeal as a finding or charge on a matter of law. [\[341\]](#)

### **§ 25.2. Judicial notice of historical facts.**

The judge shall of his own motion take judicial notice of public historical facts that are so well known as not to be the subject of reasonable dispute. [\[342\]](#)

### **§ 25.3. Presumptions.**

*1. Life and death.* When a person is shown to have existed, continuing existence is presumed unless the contrary is proved or is to be reasonably inferred from the circumstances. Death shall be presumed from a continuous unexplained absence of seven years during which the absentee has not been heard of or from by those who, if he had been alive, would naturally have heard of or from him; provided, however, that the presumption does not arise when there exist circumstances or facts which reasonably account for his not being heard of or when his absence and failure to



communicate are reasonably explained without assuming his death or when diligent inquiry as to whether he is alive or dead has not been made.

2. *Legitimacy.* Whenever it is established in an action that a child was conceived by a woman while she was the lawful wife of a specified man, the party asserting the illegitimacy of the child has the burden of producing evidence and the burden of persuading the trier of fact beyond reasonable doubt that the man was not the father of the child.

3. *Marriage.* Persons who live together as husband and wife and hold themselves out as such are presumed to be married.

4. *Sales in shops.* If an article is sold in an office or shop where such articles are usually sold, the person for whose account the business of such office or shop is carried on shall be presumed to have sold such article.

5. *Ownership.* The possession of property raises a presumption of ownership thereof. [\[343\]](#)

#### **§ 25.4. Relevance.**

All evidence must be relevant to the issue; that is, it must have a tendency to establish the truth or falsehood of the allegations or denials of the parties or it must relate to the extent of the damages. [\[344\]](#)

#### **§ 25.5. Burden of proof.**

1. *Party having burden.* The burden of proof rests on the party who alleges a fact except that when the subject matter of a negative averment lies peculiarly within the knowledge of the other party, the averment is taken as true unless disproved by that party.

2. *Quantum of evidence.* It is sufficient if the party who has the burden of proof establishes his allegations by a preponderance of the evidence. [\[345\]](#)

#### **§ 25.6. Best evidence.**

1. *In general.* The best evidence which the case admits of must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence.

2. *Copies of writings.* A copy of a writing is not admissible as evidence unless the original is proved to be lost or destroyed or to be in the possession of the opposite party who has received notice to produce it or unless it is a copy of some public record or document proved as provided in section 25.10 of this chapter.



3. *Evidence of writing in possession of adversary.* A party may not introduce in evidence a copy of a writing the original of which is in the possession of his adversary or testify concerning the contents of such original until he shall have served on the adversary reasonable notice to produce it and the adversary shall have neglected or refused to comply with the notice. [\[346\]](#)

#### **§ 25.7. Hearsay evidence.**

1. *General rule.* Hearsay evidence is not admissible except to the extent and under the circumstances stated in paragraphs 2, 3, and 5 of this section and as otherwise established by law.

2. *Family history.* Declarations of deceased persons concerning family history of which they, from their situations, were likely to have knowledge, such as marriages, births, deaths, and pedigrees, may be received in evidence.

3. *Entries in the regular course of business.* Any writing or recording, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible in evidence in proof of said act, transaction, occurrence, or event, if the judge shall find that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event, or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but they shall not affect its admissibility. The term "business" shall include a business, profession, occupation, and calling of every kind.

4. *Proof of fact that statement was made.* Statements made out of court and offered in evidence through a witness or a writing not to establish the truth of the matter stated but to establish the fact that the statement was made, is not to be excluded as hearsay under paragraph 1 of this section.

5. *General reputation.* A person's character or that he has held or holds a public office in which he has publicly acted may be established by evidence of general reputation. [\[347\]](#)

#### **§ 25.8. Admissions.**

1. *Admissibility in general.* All admissions made by a party himself or by his agent acting within the scope of his authority are admissible. Every agent for the conduct of a cause shall have authority to make admissions in that cause. The admissions of every other agent in any matter under his control as agent shall be admissible.

2. *Joint interest.* When several parties have a joint interest and such interest has been proved, the admission of one is the admission of all; but the joint interest may not be proved by the admission of one or more against those not joining in such admission.

3. *Admissions of privy in title.* The admissions of a deceased person concerning his right in property made while the interest of such property continued shall have the same effect when introduced against a party deriving title to such property when rights in the property are in dispute as if made by such party. [\[348\]](#)

#### **§ 25.9. Parol evidence.**

When any agreement or disposition of property has been reduced to the form of a document or series of documents, no evidence may be received of the terms of such agreement or disposition of property except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible; nor may the contents of any such document be contradicted, altered, added to, or varied by oral evidence; provided that any of the following matters may be proved:

(a) Fraud, intimidation, illegality, want of execution, want of capacity of any contracting party, the fact that it is wrongly dated, want or failure of consideration, or mistake in fact or law, or any other matter which, if proved, would produce any effect upon the validity of any document, or of any party to it;

(b) The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, if from the circumstances of the case the court infers that the parties did not intend the document to be a complete and final statement of the whole of the transaction between them;

(c) The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such agreement or disposition of property;

(d) The existence of any distinct subsequent oral agreement to rescind or modify any such agreement or disposition of property, provided that such agreement is not invalid under the statute of frauds, or otherwise;

(e) Any usage or custom by which incidents not expressly mentioned in any agreement are annexed to agreements of that description; unless the annexing of such incident to such agreement would be inconsistent with its express terms;

(f) Oral evidence of a documentary memorandum if such memorandum was not intended to have legal effect as an agreement or disposition of property;

(g) Oral evidence of the existence of a legal relation, even though such relation was created by a document, when the fact to be proved is the existence of the relation, and not the terms on which it was established or is carried on. [\[349\]](#)

#### **§ 25.10. Proof of official record.**

1. *Authentication of copy.* An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that such officer has the custody. If the office in which the record is kept is within the Republic of Liberia, the certificate may be made by a clerk of a court of record of the political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, a consul general, consul, vice consul, or consular agent or by any officer in the foreign service of Liberia stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office; or, if there is no Liberian diplomatic representative in such foreign country, the required certificate may be issued by a notary public of that country.

2. *Proof of lack of record.* A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as provided in paragraph 1, is admissible as evidence that the records of his office contain no such record or entry.

3. *Other proof.* This section does not prevent the proof of official record of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.<sup>[\[350\]](#)</sup>

#### **§ 25.11. Admissibility and conclusiveness of judgments.**

1. *Against whom admissible.* Judgments shall be admissible in evidence, subject to the other provisions of this section, against all parties thereto and against those claiming under them. They shall not generally be admissible against any other persons except for the purpose of showing their own existence. When a judgment has been rendered against any party in consequence of any act or omission of another person, such judgment shall be evidence to prove its own existence and the amount of damages sustained in an action by the original party defendant against such other person.

2. *Admissibility of verdict or judgment separately.* A verdict on which no judgment has been given shall not be admissible; a judgment shall be admissible although not founded on a verdict.<sup>[\[351\]](#)</sup>

#### **§ 25.12. Foreign judgments.**

A foreign judgment in a case in which the defendant did not appear although a party thereto shall not be admissible against him; but if any person appeared on his

behalf in the case, the foreign judgment shall be admissible unless he shows that the appearance was without his authority. A judgment of a foreign prize court is not conclusive of any act whatsoever, but is some evidence.<sup>[352]</sup>

#### **§ 25.13. Proof of jurisdiction of court.**

In all cases in which the judgment of a court of limited jurisdiction or of a foreign court is sought to be introduced in evidence, the jurisdiction of such court must be proved to extend to the case in which the judgment was given.<sup>[353]</sup>

#### **§ 25.14. Will as evidence.**

A will regularly admitted to probate by a court having jurisdiction too do so is admissible against all mankind except in a proceeding to set aside such will or the probate thereof.<sup>[354]</sup>

#### **§ 25.15. Letters testamentary and of administration as evidence.**

Letters testamentary and of administration may be introduced in evidence in all cases until they have been regularly revoked.<sup>[355]</sup>

#### **§ 25.16. Deeds and other writings as evidence.**

Deeds and other writings shall be admissible against all parties to them and shall also be evidence against all mankind of the transfer of all titles or rights transferred by them.<sup>[356]</sup>

#### **§ 25.17. Proof of authenticity of documents.**

1. *Proof of handwriting.* Handwriting may be proved by the oath of a person acquainted with the handwriting of the person whose it is alleged to be either from having seen him write or from having corresponded or transacted business with him; or it may be proved by comparison with undoubted writings of the person proved not to have been written after the dispute arose or under suspicious circumstances.

2. *Examination of party to prove his handwriting.* Either party may examine the other under oath before or at the trial to determine whether any relevant document or signature is in his handwriting. If a party whose signature on a document the other party seeks to prove, refuses or neglects to answer an interrogation on this matter, except in pursuance of his constitutional right not to be compelled to give evidence against himself, it shall be considered an admission that it is his handwriting.

3. *Proof of signature of subscribing party.* If any party shall deny that the handwriting is his and if the document has the name of a subscribing witness annexed to it, such witness shall be produced or his absence accounted for by showing his death or removal beyond the process of the court or other fact rendering his attendance

impracticable. In such a case if the witness cannot be produced, it shall be necessary to prove both his handwriting and that of the party.

4. *Proof of authenticity of document under which other party claim.* It shall be unnecessary for a party to prove that a document which he seeks to introduce was executed by the other party if the latter claims under it.

5. *Ancient documents.* It shall be unnecessary to prove the execution of a document more than thirty years old which is proved to have been found in the possession of a person who may reasonably be supposed to have possession of it if it is genuine and which is attended by no circumstances tending to throw suspicion on it. [\[357\]](#)