## **Table of Contents**

# CHAPTER 1. THE ORIGIN AND EVOLUTION OF LOUISIANA TORT LAW

#### B. CURRENT LAW

- § 1:11 Modern development
- § 1:19 Retroactivity of law

### CHAPTER 2. THEORIES OF TORT ACTION

- § 2:3 Negligence
- § 2:12 Civil trespass is now appearing as a factor in tort actions [New]
- § 2:13 Fraud [New]

### CHAPTER 3. HISTORICAL DEFINITION AND ESSENTIAL ELEMENTS OF A TORT

#### A. INTRODUCTION

§ 3:6 Kinds of damage

## CHAPTER 4. THE PRIMA FACIE CASE— CURRENT LAW

- § 4:2 Duty
- § 4:5 Breach/negligence
- § 4:6 Causation
- § 4:7 Damage
- § 4:8 Hedonic damages
- § 4:9 Punitive (exemplary) damages [New]

# CHAPTER 5. THE SURVIVAL AND WRONGFUL DEATH ACTIONS

## C. SURVIVAL ACTION AND WRONGFUL DEATH—CURRENT LAW

- § 5:8 Prescription of the survival action
- § 5:9 Peremption or prescription, as to the survival action
- § 5:10 Beneficiaries
- § 5:11 Damages
- § 5:14 Wrongful death
- § 5:15 Illegitimates as beneficiaries

#### § 5:16 Prescription

#### CHAPTER 6. PROOF OF FACTS

- § 6:1 Applicable evidentiary rules
- § 6:8 Review of damages
- § 6:10 Spoliation as the basis for a tort action

## **CHAPTER 7. AFFIRMATIVE DEFENSES**

- § 7:2 Contributory negligence
- § 7:4 Comparative fault
- § 7:5 Mitigation of damages
- § 7:6 Act of God (force majeure)
- § 7:7 Voluntary dismissal [New]
- § 7:8 Rescuer doctrine [New]
- § 7:9 Equitable estoppel [New]

#### CHAPTER 8. JOINT TORTFEASORS

- § 8:1 Introduction
- § 8:2 Liability in solido (see Civil Code art. 2324B)

# CHAPTER 9. VICARIOUS AND IMPUTED RESPONSIBILITY

- § 9:1 Introduction
- § 9:2 Vicarious responsibility (including animals)
- § 9:4 C.C. Article 2320, master-servant (respondent superior)
- § 9:7 An agent is not a servant or employee
- § 9:11 Course and scope of employment
- § 9:12 Parent liability for children
- § 9:13 Animals
- § 9:16 Vicarious responsibility for punitive damages

### CHAPTER 10. PRESCRIPTION

- § 10:1 The Civil Code provisions
- § 10:2 Interruption as to joint tortfeasors
- § 10:3 Intentional joint tortfeasors in solido
- § 10:5 Contra non valentem
- § 10:6 Professional malpractice
- § 10:7 Special statutes
- § 10:8 Calculating the prescription period
- § 10:9 Pleadings and burden of proof
- § 10:11 Peremption
- § 10:12 Continuing tort
- § 10:13 Remediation [New]

#### CHAPTER 11. TORT AND CONTRACT

§ 11:1 Introduction

#### CHAPTER 12. INTENTIONAL WRONGS

#### C. INTENTIONAL WRONGS

- § 12:11 Trespass
- § 12:13 Conversion
- § 12:14 Reprisal against whistleblower
- § 12:15 Interference with a contractual relationship
- § 12:22 Invasion of privacy

## CHAPTER 13. DEFENSES TO INTENTIONAL TORTS

#### A. HISTORICAL PERSPECTIVE

§ 13:10 Acts done under official authority

#### B. CURRENT LAW

§ 13:36 Police detention

### CHAPTER 14. ACTIONS INVOLVING AUTOMOBILES

#### A. INTRODUCTION

§ 14:6 Right of way

#### B. THE LOUISIANA HIGHWAY REGULATORY ACT

- § 14:9 Sudden emergency
- § 14:10 Emergency vehicles
- § 14:15 Insurance
- § 14:15.50 UM Coverage [New]

# CHAPTER 15. PROFESSIONAL MALPRACTICE

#### A. MEDICAL MALPRACTICE

- § 15:2 The Medical Malpractice Act
- § 15:3 Harm not subject to the Medical Malpractice Act
- § 15:4 The nursing home actions
- § 15:5 Medical review panel
- § 15:6 The Patient's Compensation Fund
- § 15:7 Application of the cap
- § 15:8 Prescription
- § 15:9 Contra non valentem
- § 15:10 Suspension of prescription
- § 15:11 Negligence (breach of the duty of care)
- § 15:12 Specific standards of care

- § 15:13 Res ipsa loquitur
- § 15:14 Informed consent
- § 15:16 Living will

## B. SPECIFIC CLAIMS RESULTING FROM MEDICAL MALPRACTICE

§ 15:21.50 Loss of chance of survival [New]

#### C. LEGAL MALPRACTICE

- § 15:23 Legal characterization of relationship
- § 15:24 Standard of care
- § 15:25 Damages
- § 15:27 Defective wills
- § 15:28 Prescription

#### D. OTHER PROFESSIONAL LIABILITY

- § 15:29 Liability of certified public accountants
- § 15:33 Liability of architects
- § 15:34 Engineers
- § 15:35 Immunity from liability
- § 15:37 Liability of contractors
- § 15:38 Liability of insurance agents
- § 15:39 Various other professionals
- § 15:41 Healthcare provider-patient evidentiary privilege

#### CHAPTER 16. PRODUCTS LIABILITY

#### B. CURRENT LAW

- § 16:8 Introduction
- § 16:9 New Home Warranty Act

#### C. SPECIFIC ACTIONS

- § 16:10 Redhibition
- § 16:12 Prescription
- § 16:15 Cigarettes and tobacco

#### D. PRODUCTS LIABILITY

- § 16:19 Halphen defects in construction
- § 16:23 The Louisiana Products Liability Act
- § 16:24 The LPLA cause of action
- § 16:25 The LPLA action in design defect
- § 16:32 Reasonably anticipated use under the LPLA
- § 16:33 Warning under the LPLA
- § 16:35 Successor liability [New]

#### CHAPTER 17. DEFAMATION

#### **B. CURRENT LAW**

- § 17:4 Requirements for the action
- § 17:5 Special motion to strike (C.C.P. Art. 971)
- § 17:6 Defamatory statements

## C. U.S. CONSTITUTIONAL LIMITATIONS OF THE ACTION

§ 17:13 Fair comment—Qualified privilege

#### CHAPTER 18. IMMOVABLE PROPERTY

#### B. CURRENT LAW

- § 18:21 Nondelictual C.C. Article 667
- § 18:23 Mineral rights as immovables
- § 18:24 Buildings in ruin or in need of repair
- § 18:25 Crime on the premises
- § 18:26 Slip and fall
- § 18:27 Invitee—Licensee—Trespasser—Attractive nuisance
- § 18:28 The immunity statutes for premises
- § 18:29 Lessor liability—Foreword
- § 18:31 Actions by pro se litigants [New]
- § 18:32 The Ground Water Act [New]

### CHAPTER 19. LIABILITY OF THE STATE AND POLITICAL SUBDIVISIONS

#### B. THE LAW AFTER THE 1996 REVISION

- § 19:10 Other statutory limitations of liability of the state— Discretionary acts
- § 19:14 Evidence of defect
- § 19:16 Duty of care, generally
- § 19:27 Abandoned oil structures

#### CHAPTER 20. ELECTRICAL UTILITIES

#### A. INTRODUCTION

§ 20:3 The emergence of the Levi version of strict liability

#### CHAPTER 21. INSURANCE

## A. HISTORICAL BACKGROUND OF THE DIRECT ACTION AGAINST THE INSURER

§ 21:2 History

#### B. CURRENT LAW

- § 21:3 The direct action statute
- § 21:4 Exclusions from coverage
- § 21:5 Exclusions generally
- § 21:6 The intentional harm exclusion
- § 21:9 Insurer's good-faith duty
- § 21:10 Subrogation—UM carrier
- § 21:14 Policy provisions
- § 21:15 Flood damage [New]
- § 21:16 Hospital lien [New]
- § 21:17 Electronic signature on policy [New]

#### CHAPTER 22. INTOXICANTS

#### A. INTRODUCTION

§ 22:1 Introduction

## B. HISTORICAL DEVELOPMENT OF LOUISIANA LAW

- § 22:6 Statutory responsibility of alcoholic beverage retailers
- § 22:8 On the premises
- § 22:10 Injury to inebriated victim [New]

#### CHAPTER 23. WORKERS' COMPENSATION

- § 23:1 Introduction
- § 23:2 Application of the intentional-act exception
- § 23:3 Operational danger—Intent or not?
- § 23:6 Vicarious liability of the employer
- § 23:9 Third-party tortfeasors
- § 23:13 Prescription
- § 23:15 Who is a seaman?
- § 23:16 Longshoreman and Harbor Workers Claims Act (LHWCA)
- § 23:17 Disputed claims
- § 23:18 Occupational diseases [New]
- § 23:19 Retaliatory discharge [New]
- § 23:20 Statutory employee [New]

#### CHAPTER 24. DISCRIMINATION

#### A. LOUISIANA APPROACH

- § 24:5 Employment discrimination
- § 24:7 Race, color, religion, sex, and national origin

#### **B. FEDERAL PROVISIONS**

§ 24:19 Overview

## CHAPTER 25. LIABILITY FOR PERSONS AND THINGS IN CUSTODY: CIVIL CODE ARTICLES 2317 TO 2322

§ 25:3 The 1996 legislative revision of these articles

# CHAPTER 26. BUSINESS HARM STATUTES IN FORCE IN LOUISIANA

#### A. LOUISIANA LAW

§ 26:5 Unfair Trade Practices and Consumer Protection Law

## **CHAPTER 27. PROCEDURE**

§ 27:1	Courts; jurisdiction
§ 27:2	In personam jurisdiction via the Internet
§ 27:3	Courts in general
§ 27:4	Courts; venue
§ 27:5	Change of venue
§ 27:6	Actions
§ 27:8	Cumulation
§ 27:9	Lis pendens
§ 27:30 § 27:10	Abandonment
§ 27:10 § 27:11	Class actions
§ 27:11 § 27:12	Parties: Joinder
§ 27:12 § 27:13	
§ 27.15 § 27:15	Proper parties
	Pleadings
§ 27:16	Exceptions
§ 27:19	Summary proceedings
§ 27:21	Special motion to strike (C.C.P. Article 971)
§ 27:23	Motion for summary judgment
§ 27:24	Offer of judgment
§ 27:25	Answer
§ 27:29	Intervention
§ 27:30	Third-party demand
§ 27:31	Amendment
§ 27:32	Citation and service of process
§ 27:33	Filing and service of pleadings [Retitled]
$\S 27:34$	Production of evidence
§ 27:35	Discovery
§ 27:36	Pretrial procedure
§ 27:39	Default judgment
§ 27:40	Jury trials
§ 27:41	JNOV
§ 27:42	Jury verdict form
§ 27:43	Judgments
§ 27:44	The declaratory judgment
§ 27:44.50	Concursus [New]
§ 27:45	Final judgments
8 27.46	Partial final judgments

§ 27:48	New trial
§ 27:49	Nullity of judgments
§ 27:50	Appellate procedure
§ 27:51	Standards of review in appellate court proceedings
§ 27:53	Res judicata
§ 27:54	Enforcement of foreign judgments
§ 27:55	Arbitration
§ 27:57	Judicial mortgage
§ 27:58	District court rules—Analysis and jurisprudence
§ 27:59	Settlement [New]
§ 27:60	Wrongful seizure [New]
§ 27:61	Evidence [New]
§ 27:62	Due Process [New]
§ 27:63	Injunction [New]
§ 27:64	Expropriation [New]
§ 27:65	Action to quiet title [New]
§ 27:66	Indemnity [New]
§ 27:67	Conflict of laws [New]
§ 27:68	Admiralty Jurisdiction [New]
§ 27:69	Parish and City Court Jurisdiction [New]
§ 27:70	Limited Liability Company (LLC) [New]
§ 27:71	Sovereign immunity [New]
§ 27:72	Collateral mortgage [New]
§ 27:73	Forum selection clause [New]
§ 27:74	Relating Back [New]
§ 27:75	Mandamus [New]
§ 27:76	Quo Warranto [New]
§ 27:77	Wills [New]
§ 27:78	Eviction [New]
§ 27:79	Action in contract v. redhibition [New]

# CHAPTER 28. GENERAL DAMAGES: MENTAL DISTRESS

- § 28:3 Negligent infliction of emotional distress
- § 28:4 Mental anguish damages for harm to animals or other property
- § 28:5 Mental anguish (bystander damages)

## **CHAPTER 29. IMMUNITY STATUTES**

§ 29:1 Introduction

## CHAPTER 31. CASINO GAMING VESSELS

§ 31:2 Maritime primer

# CHAPTER 32. CORPORATIONS AND LLC COMPANIES [New]

§ 32:1 Duty of care

Table of Contents

## CHAPTER 33. THE PRIVATE WORKS ACT, THE PUBLIC WORKS ACT AND CONSTRUCTION [New]

§ 33:1 In general

## CHAPTER 34. REMEDIATION [New]

§ 34:1 Subsequent purchaser rule
Table of Laws and Rules
Table of Cases
Index