PUBLICATION UPDATE

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Louisiana Tort Law

Publication 83175 Release 22 December 2025

HIGHLIGHTS

- This release contains numerous updates and recent developments in Louisiana tort law that have been added throughout the publication.

Chapter 2, Intentional Torts and Defenses:

In *Irwin v. Brent*, 348 So. 3d 835 (La. App. 4th Cir. 2022), *rev'd*, 413 So. 3d 342 (La. 2025), an argument between a landlord and a tenant escalated and resulted in the tenant pushing the landlord and the landlord punched the tenant. The Louisiana Supreme Court reversed the Fourth Circuit and reinstated the district court judgment that plaintiff consented to the battery and defendant's responsive actions were not unreasonable.

Chapter 5, Duty: General and Specific Risks:

In *Campbell v. Orient-Express Hotels Louisiana, Inc.*, 403 So. 3d 573 (La. 2025), the Louisiana Supreme Court held that an innkeeper has a duty to exercise reasonable care to protect its guests from third-party criminal acts. In so holding, the Court clearly stated that in negligence cases duty and scope of duty are separate elements and in deciding scope of duty the decision-maker should consider foreseeability and ease of association.

Chapter 7, Damages:

The courts continue to grapple with the new standard for reviewing general damages awards announced in *Pete v. Boland Marine & Mfg. Co.,* 23-170 (La. 10/20/23), 379 So. 3d 636, *reh'g denied*, 23-170 (La. 12/7/23), 374 So. 3d 135. One such high-profile case was *Barber Bros. Contracting Co., LLC v. Capitol City Produce Co., LLC*, 2023-00788 (La. 6/28/24), 388 So. 3d 331 (La. 6/28/24), *on rehearing*, 397 So. 3d 404, 415 (La. 12/19/24), and *reh'g*

denied, 400 So. 3d 918 (La. 2/14/25).

Separately, the Louisiana legislature amended and reenacted La. R.S. 9:2800.27 relative to the recovery of medical expenses and the collateral source rule.

Chapter 9, Defenses to Negligence: Comparative Fault and Related Concepts:

Act No. 15 of the 2025 Regular Session of the Louisiana Legislature amended Civil Code Article 2323(A), changing it from a pure comparative regime to modified or hybrid comparative fault. Pursuant to the amended Article, if a plaintiff is allocated 51% or more of the negligence, that plaintiff is barred from recovery. If a plaintiff is allocated less than 51% of the negligence, then plaintiff's recovery is reduced by the percentage of negligence allocated to him. The amended Article further provides that in cases in which the issue of comparative fault is submitted to the jury, the court is to instruct the jury on the effect of the Article.

Chapter 10, Prescription and Peremption:

The Legislature's 2024 adoption of a general two-year prescriptive period for tort claims left some uncertainty about other specific statutory prescriptive periods that were not amended. The Legislature addressed the issue regarding wrongful death and survival actions during the 2025 Regular Session. Act No. 176 amended La. Civ. Code arts. 2315.1(A) and 2315.2(A), to provide that both survival actions and wrongful death actions must be brought within one year of the decedent's death or two years from the day that injury is sustained, whichever is longer. These amened articles do not apply to survival actions and wrongful death actions based on medical malpractice.

Chapter 19, Negligent Provision of Services (Malpractice):

The legislature amended definitions of "health care" and "malpractice" to sweep in acts and omissions sometimes excluded from the Louisiana Medical Malpractice Act as "administrative negligence." Through Act No. 342 of 2025, the legislature extended the protection of the MMA to persons and entities that provide administrative and managerial services to traditional providers of health care. This includes those involved in setting policies or otherwise involved in staffing health care facilities with adequate personnel. The Act became effective August 1, 2025.

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