

APPENDIX 1 Landmark Cases

Ahadie v. Commercial Union Insurance Company. 464 So.2d 979 (La.App., 4 Cir. 1985).

Established the fact that the loss of consortium recovery right statutorily granted to a spouse would be applied only prospectively, after the effective date of the statute allowing such a cause of action.

Armstrong v. Land & Marine Applicators, Inc.. 463 So.2d 1327 (La.App. 5 Cir. 1984). Decided, pursuant to the Louisiana conflict of laws rule that an insurance policy written in Boston, delivered in California and covering a Louisiana accident is governed by Louisiana law (not Massachusetts or California law).

Baker v. Thibodaux. 470 So.2d 245 (La.App. 4 Cir. 1985). Established that a golfer had no cause of action for errant shot causing injury to another golfer on an adjacent fairway.

Ballard v. Javakrishuan. 427 So.2d 665 (La.App. 5. Cir. 1983) and **Fortenberry v. Berthier.** 503 So.2d 596 (La.App. 4 Cir. 1987). Established that a summary judgment is an appropriate remedy for a physician who is sued where a plaintiff does not present a countervailing affidavit of an opposing expert.

Dreudling v. St. Paul Fire and Marine Insurance Company. 482 So.2d 83 (La.App, 4 Cir. 1986), Established the duty owed by a nursery school where a child is injured on the premises.

Griffis v. Gulf Coast Pre-Stress Co. Inc.. No. 87-3844 (5th Cir. 1988). Limited federal jurisdiction under Longshore and Harbor Workers' Compensation Act,

Harris v. Pizza Hut of Louisiana. 445 So.2d 1364 (La. 1984) and **Banks v. Hyatt Corporation.** 722 F.2d 214 (5 Cir. 1984). These two landmark cases by the Louisiana Supreme Court and the U.S. Fifth Circuit Court of Appeal define the duty owed by a business owner and innkeeper to invitees where the criminal conduct of a third-party causes injury.

Keifcr v. Whittaker. 468 So.2d 587 (La.App. 4 Cir. 1985). Established the principle that the battery exclusion defeats coverage where an injury is caused by an intentional assault and related activities.

Laburre v. East Jefferson General Hospital. 555 So.2d 1381 (La. 1990). Established standards for confidentiality of voluntary blood donors in blood disease litigation.

Lebeouf v. Colony Insurance Company. 486 So.2d 760 (La. App. 1 Cir. 1985). Held that the plaintiff has no cause of action against the tortfeasor's insurance agent for failure to provide liability insurance.

Leonard v. New Orleans East Orthopedic Clinic. 485 So.2d 1008 (La.App. 4 Cir. 1986). Established the jurisprudential rule that, even where a patient is not aware of a risk associated with a surgical procedure, the patient cannot recover where a general consent for the surgery has been given.

Levesque v. Saba. 402 So.2d 266 (La.App. 4 Cir. 1981). Resulted in a finding of no coverage where the tortfeasor fired three shots "in the direction from which blows were coming at him", the Court applying the intentional injury exclusion.

McBride v. Ear! K. Lone Memorial Hospital. 459 So.2d 602 (La.App. 5 Cir 1984). Established that the 1975 statute of limitations for medical malpractice is not retroactive.

Nguven, et al. v. Crescent Land and Development Co., Inc.. et al. 527 So.2d 456 (La.App. 5 Cir. 1988). Successfully defended landowner from wrongful death claim of ten year old who suffocated in a sandpile on insured's property. Appellate Court affirmed the jury verdict in defendant's favor, limiting liability of landowners and narrowing the scope of on premises defects.

Ryder Truck Rental, Inc.. v. Pinelli. 466 So.2d 731 (La.App. 4 Cir. 1985). Established that a plaintiff has no cause of action against a homeowner's insurer for injuries arising out of the use of an automobile even where the insured's liability is purely vicarious. In this case, the insured's liability was as the parent of the tortfeasor minor.

Schneider v. Proctor and Gamble Manufacturing Company, Inc.. 411 So.2d 669 (La.App. 4 Cir. 1982) and **Martin v. Gulf South Beverages, Inc..** 454 So.2d 250 (La.App. 5 Cir. 1984). Liability of manufacturers of food products and food packaging systems under Louisiana product liability law.

Shortess v. Touro Infirmary. 520 So.2d 389 (La. 1988). Louisiana Supreme Court decision created new jurisprudence in areas of hospital liability and prescription law.

Sparks v. Tulane Medical Center. 546 So.2d 138 (La. 1989). Leading case on compensability of emotional injury claims under Louisiana Workers' Compensation Law.

Springer v. St. Bernard Parish School Board, et al. 521 So.2d 461 (La.App. 4 Cir. 1988). Defense verdict limiting liability of public entity for injuries to visitors upheld, by appellate court. Case limits the scope of landowner's liability,

Vicknair v. Malbrough. 482 So.2d 45 (La.App. 5 Cir. 1986). Established the rule that a police officer may give chase to a motorist driving through a red light in a controlled intersection and that the, police officer is not responsible for damages when the offending driver collides with another motorist.

Grelle, II v. Youngblood, IV, 635 So. 2d 1291 (4th Cir. 1994). The case held that the fact even though a driver's insurer was placed in liquidation and there was an issue of stay enjoining suits against that insurer, that did not interrupt prescription with respect to the insurer's co-defendant even if they were solidary obligors.

Kirsch v. Heffner, 542 So. 2d 1118 (5th Cir. 1989). This case held that injuries suffered by the plaintiff who fell over a stack of bicycles and separated his shoulder during a fight with the defendant was the result of an intentional tort for which the homeowner's policy specifically excluded coverage.

Vardanan v. Aerosol Inc., 711 So. 2d 376 (4th Cir. 1998). This case held that in an attempt to establish a nationwide class action on behalf of every pilot and flight attendant in the United States, the trial court may have subject matter jurisdiction over the case, but did not have jurisdiction over the non-resident plaintiffs and therefore dismissed the nationwide class action.

Laborde v. DeBlanc, 587 So.2d 58 (4th Cir. 1991). This case held that a homeowner's policy specifically excluded water craft as a risk of liability even though the allegations dealt, with the repair and maintenance of the water craft.

Fontaine v. Roman Catholic Church of the Archdiocese of New Orleans, 669 So. 2d 493 (4th Cir, 1996). This case held that the defendant priest was not an insured under the policy issued to the Archdiocese because his acts were of a personal nature and not in furtherance of his duties as a priest.

Lawson v. Strauss, 757 So.2d 234. This case involved the successful defense of a physician who was charged with sexual harassment and sexual battery by three former employees. The judgment held that the activities between the parties were welcome and did not constitute sexual harassment and that the employees failed to establish an intentional infliction of emotional distress or battery.

Savio v. Kansas City Southern Railway Company, Inc., 675 So. 2d 821 (4th Cir. 1996). The decision in this case was that the policy of hospitalization insurance unambiguously gave the insurer a subrogation right to recover benefits paid from either a third party tortfeasor or the third party tortfeasor's insurer and therefore the ten year liberative prescription period for personal actions applied to the insured's petition.

Spott v. Otis Elevator Company, 601 So. 2d 1355 (La. 1992). In this case, an elevator passenger brought a claim for damages against the elevator manufacture and the maintenance firm when the elevator allegedly dropped unexpectedly. The Supreme Court held that the action against the elevator owner had prescribed; the plaintiff did not establish negligence against the elevator maintenance firm; the maintenance firm rebutted any presumption of negligence even if *res ipsa loquitur* may have been properly invoked. The maintenance firm was not strictly liable for the accident and any products liability claim against the manufacturer was not established.

Boyer v. Seal. 553 So. 2d 827 (La. 1989). In this case, counsel representing the defendant homeowner's insurer and insured reversed a trial court verdict in favor of the plaintiff. The Supreme Court held that an animal owner is liable for damages inflicted by his animal, only if the damage suffered was caused by an animal that created an unreasonable risk of harm.

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Wooten v. Bartholomew. 556 So. 2d 75 (4th Cir. 1989), writ denied, 1990. In this case, the defense was successful in obtaining a finding in favor of the defendant and against the plaintiff motorcyclist, holding that the motorcyclist's negligence was 100% of the cause of the accident.

Devillier v. Fidelity and Deposit Company of Maryland. 709 So. 2d 277 (La.App. 3 Cir. 1998). In this case, the defendant was successful in obtaining a judgment in favor of the insurer on the grounds that the comprehensive general liability policy did not provide coverage for the president's alleged abusive behavior or retaliation and the president's alleged pattern of abusive behavior did not constitute an occurrence under the general liability insurance policy.

Meyers v. American Seating Company. 637 So. 2d 771. In this case, counsel successfully defended the manufacturer of a folding chair that jack-knifed, causing severe injuries to the plaintiff.

Peterson v. B E & K Incorporated of Alabama. 652 So., 2d 617 (1st Cir. 1995). In this case, counsel successfully defended B E & K Incorporated, a construction company, out of Alabama, on the basis that the joint venture created between two entities was in fact the plaintiffs statutory employer, and therefore, immune from tort liability. Each was immune from tort liability as members of the joint venture.

APPENDIX 2
Reported Cases

1. Motorola, Inc. v. Associated Indem. Corp., 2002-1351 (La.App. 1 Cir. 6/25/04), 878 So.2d 838.
2. Earthly v. United of Ohaha Life Ins. Co., 2004-104 (La.App. 3 Cir. 6/2/04), 878 So.2d 746
3. De Atley v. Victoria's Secret Catalogue, LLC, 2004-0661 (La.App. 4 Cir. 5/14/04), 876 So.2d 112.
4. Motorola, Inc. v. Associated Indem. Corp., 2002-1351 (La.App. 1 Cir. 10/22/03), 876 So.2d 723.
5. Skinnerv. Derr Const. Co., 2002-1568 (La.ADD. 4 Cir. 6/11/03), 850 So.2d 24.
6. Motorola, Inc. v. Associated Indem. Corp., 2002-0716 (La.App. 1 Cir. 4/30/03), 867 So.2d 715
7. Zapalowski v. Campbell, 02-829 (La.App. 5 Cir. 11/26/02), 833 So.2d 453.
8. George v. Dover Elevator Co., 2002-0821 (La.App. 4 Cir. 2002), 828 So.2d 1194.
9. In re Triss, 2001-1921 (La.App. 4 Cir. 2002), 820 So.2d 1204.
10. Seigne v. Ivkr, 2000-0758 (La.App. 4 Cir. 2002), 808 So.2d 783.
11. Elfcr v. Murphy Oil U.S.A., inc., 2001-1058 (La. App. 4 Cir. 2001), 804 So.2d 71.
12. Roland v. Owens, 00-1846 (La.App. 5 Cir. 2001), 786 So.2d 167.
13. LaFleur v. Hollier Floor Covering, Inc., 2000-00969 (La.App. 3 Cir. 2000), 774 So.2d 359.
14. Carter v. Grant, 1997-2106 (La.App. 4 Cir. 2000), 772 So.2d 835.
15. Dumont v. Maaliki, 1999-1850 (La.App. 1 Cir. 2000), 769 So.2d 1230.

16. Bolton v. Tulane University. 1999-0970 (La.App. 4 Cir. 2000V 755 So.2d 1003.
17. Cortez v. Zurich Ins. Co., 98-2059 (La.App. 1 Cir. 1999), 752 So.2d 957.
18. Lawson v. Straus. 1998-2096 (La.App. 4 Cir. 1999), 750 So.2d 234.
19. Charbonnet v. Spalitta. 98-1321 (La.App. 5 Cir. 1999) 747 So.2d 1155.
20. Kistner v. King. 726 So.2d 68 (La. App. 5 Cir. 1998)
21. Dufrens v. Willingham. 721 So.2d 1026 (La. App. 5 Cir. 1998)
22. Pitrev. Dufrene, 708 So.2d 1085 (La. App. 5 Cir. 1998)
23. Blanchard v. Ptermeckv. 709 So.2d 796 (La. App. 5 Cir. 1998)
24. Boudoin v. Crawford & Marshall Ltd., 709 sold 798 (La. App. 5 Cir. 1998)
25. Constans v. Choctaw Transport. Inc., 712 So.2d 885 (La. App. 4 Cir. 1997)
26. Everett v. So. Transplant Service Inc., 700 So.2d 9Q9 (La. ADO. 4 Cir. 1997)
27. McDougal v. Blanch. 672 So.2d 398 (La. App. 1 Cir. 1996)
28. Serigne v. Ivker. 669 Sold 1335 CLa. App. 4 Cir. 1996
29. Valenti v. Petmeckv. 669 So.2d 1 (La. ADD.5 Cir. 1996V)
30. Gamino v. Lakeside Hospital. 652 So.2d 36 (La. APP. 5 Cir. 1995)
31. Hall v. Fertility Institute of New Orleans. 647 So.2d 1348 (La. App. 4 Cit. 1994)
32. In re Viviano. 645 So.2d 1201 (La.ADD. 4 Cir. 1994).
33. Delery v. Prudential Ins. Co. of America. 643 So.2d 807. (La. App. 4 Cir. 1994)
34. Richardson v. Advanced Cardiovascular Systems Inc. 865 F.Supp.1220 (E.D. La, 1994); 885 F.Supp, 1210 (E.D. La, 1994)
35. Longman, v. Allstate Ins. Co., 635 So.2d 343 (La. ADD. .4 Cir. 1994)
36. Williams v. Golden. 611 So.2d 713 (La. ADD.4 Cir. 1992)
37. Butler v. Flint Goodrich Hospital of Dillard University. 607 So.2d 517: 61 USLW 2284 (La. 1992)

38. Eastern v. Chevron Industries Inc.. 602 So.2d 1032 (La. ADD. 4 Cir. 1992)
39. Clark v. Ransom. So.2d 710 (La. App. 5 Cir. 1992)
40. In re Cooper. 594 So.2d 1082 (La. App. 4 Cir. 1992)
41. Williams v. Hotel Dieu Hospital. 593 So.2d 783 (La.App. 4 Cir. 1992)
42. Longman v. Allstate Ins Co.. 589 So.2d 73 (La.App. 4 Cir. 1991)
43. Threlkeld v. Haskins Law Firm. 992 F.2d 265 (La. App. 5 Cir. 1991)
44. Francioni v. Rault. 570 So.2d 36 (La. App. 4 Cir, 1990)
45. Smith v. Xerox Corp. 118. F.Supp. 494 (E.D. La. 1989); 866 F.2d 135 (La. 5 Cir. 1989)
46. Davis v. So. Louisiana Insulations. 539 So.2d 922 (La. ADD. 4 Cir. 1989)
47. Hinchman v. Oubre. 539 So.2d 94 (La. App. 5 Cir. 1989)
48. Grcsham v. Davenport. 537 So.2d 1144 (La. 1989)
49. D'Angelo v. Doe. 535 So.2d 31 (La. App. 4 Cir. 1988)
50. Topev v. St. Bernard Linen Service. Inc.. 529 So.2d 137 (La. App. 4 Cir. 1988)
51. McCrossen v. Renovate. Inc.. 528 So.2d 1083 (La. ADD. 5 Cir. 1988)
52. Jones v. CitvofNew Orleans. 522 So.2d 1204 (La. ADD. 4 Cir..198.8)
53. Pernia v. Trail. 519 So.2d. 231 (La. ADD. 5 Cir. 1988)
54. Kennedy v. Mitchell Engineering. 518 So.2d 1128 (La. App. 4 Cir, 1987)
55. Wright Bros. Corp. v. Colomb. 517 So.2d 1194 (La. AOP.. 4 Cir. 1987)
56. Williams v. American Crescent Elevator Co.. 518 So.2d 1091 (La. App. 4 Cir. 1987)
57. Leonhard v. New Orleans East Orthopedic Clinic. 485 So.2d 1008 (La. App. 4 Cir. 1986)
58. Dreuding v. St. Paul Fire & Marine Ins. Co. 482 So.2d 83 (La. ADD. 4 Cir. 1986)
59. Tai Pine Ins. Co.. Ltd, v. United Kingdom Mut. S.S. Assur. Assn.. 625 F.Supp. 1020 (E.D. La. 1985)

60. Vazquez v. Davis. 466 So.2d 671 (La. App. 5 Cir 1985)
61. Abadie v. Commercial Union Ins. Co., 464 So.2d 979 (La. App. 4 Cir. 1985)
62. Gonzales v. La. Coca-Cola Bottling Co., 459 So.2d 624 (La. App. 5 Cir. 1984)
63. Harris v. Pizza Hut of La. Inc., 455 So.2d 1364 (La. 1984)
64. Martin v. Gulf South Bev. Inc., 454 So.2d 250 (La.App. 5 Cir. 1984)
65. Hinchman v. Oubre. 445 So.2d 1313 (La.App. 5 Cir. 1984)
66. Harris v. PJ7.7.a Hit of La., Inc., 445 So.2d 756 (La.App. 4 Cir. 1984)
67. Banks v. Hyatt Corp., 722 F.2d 214 (La. 5 Cir, 1984); 708 F.2d 159 (La. 5 Cir. 1983)
68. Ballard v. Javakrishnan. 427 So.2d 665 (La. App. 5 Cir. 1983)
69. Spalitta v. Hartford Fire Ins. Co., 423 So.2- 824 (La. APP. 5 Cir. 1983).
70. Authement v. Luke. 418 So.2d 742 (La. App. 5 Cir. 1982)
71. Schneider v. Proctor and Gamble Mfg. Co., Inc., 411 So.2d 669 (La.App. 4 Cir. 1982)
72. Wallace C. Drennan Inc. v. Haeuser. 402 So.2d 771 (La. APP. 4 Cir. 1981)
73. Finch v. Lake, 396 So.2d 391 (La. App. 1 Cir. 1961)
74. David v. Hooker Chemical & Plastic Com., 394 So.2d 802 (La. ADD. 4 Cir. 9981)
75. Bierman v. Tampa Elec. Co., 604 F.2d 929 (Fla. 5 Cir. 1979)
76. Oregon v. Sweatman. 367 So.2d 1199. (La. APP. 4 Cir. 1978)
77. Holloway v. Southern Baptist Hospital. 367 So.2d 871 (La. ADD. 4 Cir. 1978)
78. Fazande v. Continental Grain Co., 363 So.2d 1253 (La. App. 4 Cir. 1978)
79. Darenbourp v. Terranova. 359 So.2d 1332 (La. App. 4 Cir. 1978)
80. Brown v. Wallace C. Drennan Co., 359 So.2d 715 (La. ADD. 4 Cir. 1978)
81. Henninger v. U.S. Fidelity & Guaranty Co., 357 So.2d 96 (La. App. 4 Cir. 1978)
82. Brown v. Drennan, 358 So.2d 963 (La. App. 4 Cir. 9977); 347 So.2d 955 (La. App. 4 Cir.

1977)

83. Phillips v. Barraza. 349 So.2d 347 (La. App. 4 Cir. 1977) 1 320 So.2d 587 (La. App. 4 Cir. 1975)
84. Speirer v. McIntosh. 342 So.2d 238 (La. App. 4 Cir. 1977)
85. Riles v. Center. 334 So.2d 457 (La. App. 4 Cir. 1976)
86. Kennedy v. Joseph. 325 So.2d 769 (La. App. 4 Cir. 1976)
87. Osborn v. Aetna Life & Cas. Co.. 308 So.2d 355 (La. App. 4 Cir. 1975)
88. Kat2 & Besthoff Inc. v. Auto Trailer Rental Inc., 288 So.2d 69 (La. App. 4 Cir. 1974)
89. Page v. United Ins. Co. of America. 286 So.2d 188 (La. App. 4 Cir. 1973)
90. Grubcr v. Beeson. 284 So.2d 820 (La. App. 4 Cir. 1973)
91. Wilson v. Allstate Ins. Co.. 278 So.2d 814 (La. App. 4 Cir. 1973)
92. Grace v. Armstrong. 266 So.2d 737 (La. App. 4 Cir. 1972)
93. Scott v. Young Women's Christian Ass'n., 263 So.2d 367 (La. App. 4 Cir. 1972)
94. Dunn v. Jefferson Parish. 256 So.2d 664 (La. App. 4 Cir. 1972)
95. Mull v. Burckhardt 252 So.2d 475 (La. App. 4 Cir. 1971)
96. Cooper v. Phoenix Ins. Co.. 252 So.2d 565 (La. App. 4 Cir. 1971)
97. Boudreaux v. Altex Ready Mix Concrete Co., 246 So.2d 721 (La. App. 4 Cir. 1971)