

CHAPTER 10: THE STATE'S DUTY TO PROTECT YOU AND YOUR PROPERTY— TORT ACTIONS*

A. INTRODUCTION

This Chapter explains your right to protect your body and property while you are in prison in Louisiana, and the steps you can take if you believe someone has violated those rights. Part B of this Chapter begins by introducing you to the general law of personal injury, called “tort law” (and sometimes called the law of *delict* in Louisiana). This Chapter will give you a brief overview of the law as it stands in Louisiana. If you want a more detailed explanation of what tort law is in general, you should see Chapter 17 of the main *JLM*. Part B of this Chapter will include common tort actions that prisoners may want to bring. Part C of this Chapter will explain how you can protect your rights with respect to administrative remedies and filing an original claim in court. This will cover the procedure for filing a claim in Louisiana and the steps you must take to file a lawsuit. This includes how to choose the right court, who you can sue, and the documents you must file. It also includes when and where to take each step in the process of bringing your lawsuit, the types of relief you may receive for your injury, and how you can appeal a decision that is not in your favor. Read this carefully and keep in mind that if you wait too long to file a claim or file it in the wrong place, you may lose your claim altogether.

At the end of this Chapter, there is an Appendix with a map of the judicial districts of Louisiana, followed by contact information for each of those districts. You should refer to this map and list of contact information while reading Parts C(2)(b) and C(3)(c) below. There are also three sample forms in the Appendix that you can make a copy of and use. The first form is for you to fill out before a trial if you are representing yourself. Your use of this form is explained in Part C(4). The second and third forms are to “Proceed *in Forma Pauperis*.” This means you will fill out these forms before a trial or an appeal, respectively, if you need to tell the court that you have no money. Your use of these forms is explained in Part C(3)(d).

B. KNOW YOUR RIGHTS: TORT ACTIONS

In Louisiana, the law recognizes that, in general, people have a duty not to injure others and not to damage or destroy the property of others.¹ When someone breaks that duty, it is called a *tort*.² Acts that fall into the category of tort law are called “tortious conduct.” A person who commits an act of tortious conduct is called a “tortfeasor.”³ Under tort law, you can seek a remedy for this injury or damage, usually in the form of money.⁴

Tort actions are civil actions, not criminal, but the same tortious conduct could potentially lead to criminal action as well.⁵ This chapter just deals with the civil actions that are the result of tortious conduct. There are several types of torts: intentional, negligent, and constitutional. An “intentional tort” is when one person hurts another person or damages another person’s property on purpose (*see* Section 1 below). A “negligent tort” is often the result of a person failing to take proper precautions to protect other people and their property (*see* Section 2 below). A “constitutional tort” is the violation of your federal or state constitutional rights (*see* Section 3 below). You will need to know which of these types of torts you suffered in order to win your case.

* This Supplement Chapter was written by Stephanie Fine.

¹ LA. CIV. CODE ANN. art. 2315 (2017) (“Every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.”).

² Black’s Law Dictionary 1626 (9th ed., 2009).

³ Black’s Law Dictionary 1627 (9th ed., 2009).

⁴ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 3.4 (2d ed., 2016).

⁵ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 12.18 (2d ed., 2016).

Both *tort* and *delict* have been used to describe the same conduct.⁶ This chapter will refer to it as tort, but you should be aware that the term “delict” could come up in the lawsuit process or on forms you need to fill out, and remember that it means the same thing.

1. Intentional Torts

Intentional torts happen when the tortfeasor intended to touch you or your property, intended to do the act that caused your injury, or otherwise intended to harm you or damage your property.⁷ For most intentional torts, you must prove that you have an interest in the thing injured (such as your bodily integrity or your property) and that the tortfeasor's intentional act interfered with that interest.⁸ This means that you must show: 1) that the tortfeasor hurt you or damaged your property, 2) that the tortfeasor acted intentionally, and 3) that the tortfeasor's actions were not privileged and that you did not consent to his actions.

For example, if a prison guard caused you physical pain because he intentionally took away your mattress for many months, or if a prison official intentionally took your book for no apparent reason, you may be able to prove that he committed an intentional tort.⁹

The most relevant types of intentional tort claims for your purposes can be broken down into two types of injuries: injuries to your body and damages to your property. A tort injury to your body is called “battery.”¹⁰ Tort injuries to your property include “trespass to chattels” and “conversion.”¹¹ Each of these intentional torts is explained in Part (B)(4) below.

2. Negligent Torts

As with intentional torts, in which every person is responsible for his acts that injure others, with negligent torts a person is responsible for any injuries he causes by neglecting his duties or acting without proper care.¹² Unlike an intentional tortfeasor, a negligent tortfeasor does not intend to cause damage or injury. Instead, a negligent tortfeasor creates an unreasonably unsafe situation by doing something an ordinary person would not do, or by failing to take some precaution he should have taken. When this unreasonable behavior causes injury or destruction of property, it is a negligent tort.

In general, there are four elements to every negligent tort claim: duty, breach, causation, and damages.¹³ Below is a brief introduction to each of these elements. For additional explanation, see Chapter 17 of the main *JLM*, “The State's Duty to Protect You and Your Property: Tort Actions.”

a. Duty

“Duty” means that the person who injured you or damaged your property, the tortfeasor, must have had either a legal responsibility to protect you, or at least a legal responsibility to not injure you or damage your belongings.¹⁴ Whether or not someone owes you a duty of care depends on the particular situation and your relationship to that person. For example, a supervisor in a job owes you a duty of care

⁶ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 1.4 (2d ed., 2016).

⁷ Frank L. Maraist, *Of Envelopes and Legends: Reflections on Tort Law*, 61 LA. L. REV. 153, 157 (2000).

⁸ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 12 (2d ed. 2016).

⁹ Peterson v. Gildon, 40,328, p. 3 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1284, 1287, *writ denied*, 2006-1098 (La. 10/27/06); 939 So. 2d 1277 (prisoner brought suits against prison officials for allegedly taking his books and his mattress, which caused him mental suffering and physical pain).

¹⁰ Vernon Valentine Palmer, *The Fate of the General Clause in A Cross-Cultural Setting: The Tort Experience of Louisiana*, 46 LOY. L. REV. 535, 561–562 (2000).

¹¹ Vernon Valentine Palmer, *The Fate of the General Clause in A Cross-Cultural Setting: The Tort Experience of Louisiana*, 46 LOY. L. REV. 535, 561–562 (2000).

¹² LA. CIV. CODE ANN. art. 2316 (2017) (“Every person is responsible for the damage he occasions not merely by his act, but by his negligence, his imprudence, or his want of skill.”).

¹³ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 8.1 (2d ed.; 2016); see also Scott v. State, 618 So. 2d 1053, 1059 (La. App. 1 Cir. 1993) *writ denied*, 620 So. 2d 881 (La. 1993).

¹⁴ Black's Law Dictionary 580 (9th ed., 2009).

to maintain a safe workplace and you can therefore sue him if he fails to do so. A coworker, however, does not owe you that duty, and you could not sue him, even if he gave you a piece of defective equipment and you got injured using it.

As a prisoner, the state and its employees owe you a duty of care in most situations, meaning that they have some responsibility to protect you while you are in prison, and have the responsibility to not injure you or damage your property. For instance, if the prison facility assigns you construction work, the facility has a duty to make sure you are working in a safe environment.¹⁵ To find out whether the state or a state employee owed you a duty of care, you should look for cases or laws that apply to your specific situation.

b. Breach

“Breach” means that the person who injured you or damaged your property, the tortfeasor, did not act in line with his duty to you.¹⁶ For example, if you are injured, through no fault of your own, while doing the construction work mentioned above in Subsection (a), the state or prison breached its duty to you to provide you with a safe work environment.¹⁷

c. Causation

“Causation” means that when the tortfeasor took the action that led to the injury, the action he took directly caused the injury.¹⁸ This element is the direct link between his action and your injury.¹⁹ For instance, in the construction work example in Subsections (a) and (b) above, if something falls from the construction site and hits you, and you experience injury from this, the causation element is satisfied if you show that being hit by something at the construction site led directly to your injury.²⁰

d. Damages

“Damages” means the extent of your injury.²¹ To satisfy this element, you have to be able to show you were actually injured.²² If the injury was to your body, you can prove bodily injury by evidence of the injury itself or your medical records documenting the injury.²³ If your property was damaged, you can show that the property is missing or broken and show the value of the property as it was before it broke or went missing.²⁴ Damages means that you need to show the damage that was done to you or your property.²⁵ In Louisiana, you must be able to show physical injury to you or physical damage to your property to recover damages for the tortious conduct (claiming mental or emotional injury alone is not enough).²⁶ For example, if you were injured while doing construction work, as in the example in

¹⁵ Pope v. State, 1999-2559, pp. 1–2 (La. 6/29/01); 792 So. 2d 713, 714 (prisoner brought suit when he was allegedly seriously injured while doing construction work assigned by prison officials).

¹⁶ Black's Law Dictionary 213 (9th ed., 2009).

¹⁷ Pope v. State, 1999-2559, pp. 1–2 (La. 6/29/01); 792 So. 2d 713, 714 (prisoner brought suit when he was allegedly seriously injured while doing construction work assigned by prison officials).

¹⁸ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.6 (2d ed., 2016).

¹⁹ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.6 (2d ed., 2016).

²⁰ Pope v. State, 1999-2559, pp. 1–2 (La. 6/29/01); 792 So. 2d 713, 714 (prisoner brought suit when he was allegedly seriously injured because a heavy piece of material fell on him while he was doing construction work assigned by prison officials).

²¹ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.7 (2d ed., 2016).

²² LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 21.6 (2d ed., 2016).

²³ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 15.41 (2d ed., 2016).

²⁴ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.7 (2d ed., 2016).

²⁵ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.7 (2d ed., 2016).

²⁶ LA. REV. STAT. ANN. § 15:1184 (2017) (“No prisoner suit may assert a claim under state law for mental or emotional injury suffered while in custody without a prior showing of physical injury.”).

Subsections (a), (b), and (c) above, you could show your medical records, which include the surgeries and hospitalization you received.²⁷

e. Example—Proving Duty, Breach, Causation and Damages

To prove a negligent tort, you must first show that the tortfeasor had a responsibility to keep you from being injured, called a “duty of care.” With negligent torts, the focus is on the duty element,²⁸ as the person who caused your injury must have owed you a duty of care in order for you to recover.²⁹ For example, if a prison guard sprayed a chemical outside your cell, and exposure to it makes you severely sick or aggravates a medical condition (like a heart condition) that the prison knows about, the prison guard neglected his duty to you to provide a safe environment. The prison guard or facility may be responsible to you for a negligent tort in failing to maintain safe premises.³⁰

Second, you must show that the tortfeasor breached this duty of care by acting negligently, or failing to do what a reasonable person would have done in that situation.³¹ With negligent torts, the breach element is important because the tortfeasor must have breached his duty of care to you. This element is also called “fault,” meaning that if the prison guard sprayed the chemical near your cell even though he knew about your heart condition, as in the example above, it may have been his fault, or breach of duty of care, that led to your injury.³²

In proving the element of breach, you must show that your injury was “foreseeable,” meaning that a reasonable person would have known that the tortfeasor’s behavior could cause the type of injury that you suffered. You must show your injury was predictable apart from the fact that you ended up injured; in other words, you cannot use the fact that you were injured to show that an injury was foreseeable. In the chemical spraying example above, the prison owes you a duty of care to keep a safe environment.³³ Injury from a chemical spray by prison officials would be foreseeable if you have a pre-existing condition (that the prison is aware of).³⁴

Causation is another important element of negligent torts, as you must prove that the tortfeasor’s mistake was the “cause-in-fact” of your injury.³⁵ In the chemical spraying example, you would have to

²⁷ Pope v. State, 1999-2559, n.1 (La. 6/29/01); 792 So. 2d 713, 714 n.1 (1999-2559 La. 6/29/01) (prisoner who brought suit when he was allegedly seriously injured while doing construction work could show medical records of his hospitalization and surgeries).

²⁸ Black v. State Through Dep’t. of Pub. Safety & Corr., 94-1305, p. 6 (La. App. 3 Cir. 5/17/95); 657 So. 2d 270, 274, *writ denied*, 95-1546 (La. 9/29/95); 660 So. 2d 876 (“the plaintiff must prove that defendant owed a duty to the plaintiff, the requisite duty was breached by the defendant, the risk of harm was within the scope of protection afforded by the duty breached, and the conduct in question was a cause-in-fact of the resulting harm”).

²⁹ Scott v. State, 618 So. 2d 1053, 1059 (La. App. 1 Cir. 1993) *writ denied*, 620 So. 2d 881 (La. 1993) (“prison authorities owe a duty to use reasonable care to protect inmates from harm This duty is not absolute, but depends upon the circumstances of the particular case.”).

³⁰ Vincent v. Creed, 38,120, p. 1 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1289, 1290 (prisoner brought suit when his heart condition was aggravated and he suffered severe chest pains because the prison guard negligently sprayed another prisoner with a chemical near his cell).

³¹ Negligence is defined as the “[t]he failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation.” Black’s Law Dictionary 1133 (9th ed., 2009); *see also* Black’s Law Dictionary 1627 (9th ed., 2009) (defining negligent tort).

³² Vincent v. Creed, 38,120, p. 1 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1289, 1290 (prisoner brought suit when his heart condition was aggravated and he suffered severe chest pains because the prison guard negligently sprayed another prisoner with a chemical near his cell).

³³ Scott v. State, 618 So. 2d 1053, 1059 (La. App. 1 Cir. 1993) *writ denied*, 620 So. 2d 881 (La. 1993).

³⁴ Vincent v. Creed, 38,120, p. 1 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1289, 1290 (prisoner brought suit when his heart condition was aggravated and he suffered severe chest pains because the prison guard negligently sprayed another prisoner with a chemical near his cell).

³⁵ State *ex rel.* Jackson v. Phelps, 95-2294, p. 3 (La. 4/8/96); 672 So. 2d 665, 666–667 (“[P]laintiff must prove that the conduct in question was a cause-in-fact of the resulting harm, the defendant owed a duty of care to plaintiff, the requisite duty was breached by the defendant, and the risk of harm was within the scope of protection afforded by the duty breached.”).

show that the chemicals sprayed led directly to your injury and that your injury was not caused by other factors.³⁶

The element of damage is the same as with intentional torts: you must show how badly you were actually injured by the negligent tort.³⁷ For instance, in the chemical spraying example, you would want to show medical records or other evidence of your aggravated condition.

There are several negligent torts particularly important to prisoners, including medical negligence and negligently maintained premises. Each of these negligent torts is explained in more detail in Part B(4) below.

3. Constitutional Torts

The violation of your constitutional rights constitutes another type of tort. The state officers and employees you encounter have the same duty not to harm you and your property that other citizens have. However, because they are state actors, they also have a duty not to violate your federal or state constitutional rights.

A federal law, 42 U.S.C. § 1983, allows you to sue state and city prison or jail officials and guards (but not federal officials) if they deprive you of your federal constitutional rights (like your right to adequate medical care, to be free from assault, and to have access to the courts and to legal materials). If you believe your federal constitutional rights have been violated, you should read Chapter 17 of the main *JLM*, “The State’s Duty to Protect You and Your Property: Tort Actions,” Part B(3)(b), as well as Chapter 13 of the main *JLM*, “Federal Habeas Corpus,” and Chapter 16 of the main *JLM*, “Using 42 U.S.C. § 1983 and 28 U.S.C. § 1331 to Obtain Relief from Violations of Federal Law.”

If you believe your state constitutional rights have been violated, you may wish to sue the state or state actors. To prove a constitutional tort against the state, you must show that the state harmed you and that the state’s actions violated specific rights listed in the state constitution. For example, you can sue the state government if the state takes your property without a legitimate reason.³⁸ For your constitutional rights in Louisiana, *see* the Louisiana Constitution of 1974.³⁹

4. Examples of Common Tort Actions

This Section describes various torts that can happen in prison and the elements you must prove to win damages for these torts.

a. Injuries Relating to Work and Work-Release Programs

Injuries sustained during the course of work within the prison or while on work release are considered work injuries. Tort actions under this category include the state’s failure to provide reasonably safe equipment, as well as the state’s failure to warn prisoners of specific dangers they might face when using the equipment.⁴⁰

Like the example detailed in Part B(2), in one case a prisoner brought a suit when he was assigned by prison officials to do construction work, and allegedly, through no fault of his own, he was hit

³⁶ Vincent v. Creed, 38,120, p. 1 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1289, 1290 (prisoner brought suit when his heart condition was aggravated and he suffered severe chest pains because the prison guard negligently sprayed another prisoner with a chemical near his cell).

³⁷ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 4.7 (2d ed., 2016).

³⁸ LA. CONST. art. I, § 4 (“Property shall not be taken or damaged by the state or its political subdivisions . . .”).

³⁹ Louisiana Constitution of 1974, *available at* <http://senate.legis.state.la.us/documents/constitution/constitution.pdf> (last visited Jan. 11, 2018).

⁴⁰ Duhon v. Calcasieu Parish Police Jury, 517 So. 2d 1016, 1018 (La. App. 3 Cir. 1987) (prisoner brought a suit against officials for personal injuries that occurred while he was working as a farm crew member in the work program).

and injured by a heavy piece of material at the construction site.⁴¹ The prisoner allegedly sustained this injury during this work because the state did not provide a safe working environment.

b. Medical Care Provided to Prisoners

Claims relating to inadequate or inappropriate medical care are negligence claims. The state has a duty to provide prisoners with reasonable and adequate medical care in a timely manner. Medical negligence may be a negligent tort when the prison owes you a duty to make sure that you have proper medical care, and breaches that duty, directly leading to your injury. This can happen if you are injured or sick and the prison does not give you proper medical attention, which makes your injury or illness worse. If you believe the state has violated this duty towards you in a way that caused you real harm, you may have a successful medical tort claim.

For example, one court granted a prisoner damages when the prison failed to give the prisoner a bland diet, even though several doctors prescribed it, and therefore the prisoner had to have most of his stomach removed. The court found that the prison breached its duty to provide adequate medical treatment to the prisoner, and the prisoner was injured by this breach.⁴²

In order to pursue a tort claim for medical negligence, you will have to prove that the treatment the state gave you (or failed to give you) was not standard for medical practice. Second, you will have to prove that the state's action or inaction directly caused your injury and that the injury would not have happened otherwise.⁴³ For more information, see Chapter 14 of the *Louisiana State Supplement*, "Your Right to Adequate Medical Care."

c. Destruction or Loss of Prisoner Property

State employees have an obligation not to take, damage, or destroy your property without just cause—whether intentionally or through negligence. If they do, you may be able to sue the state.

"Trespass to chattels" is another way to say that your property was damaged in some way.⁴⁴ If a person damages your property, and you did not give him permission to touch or use your property, that may qualify under the tort of trespass to chattels.⁴⁵

"Conversion"⁴⁶ occurs when a person intentionally takes another person's possessions as his own.⁴⁷ If someone takes your belongings and keeps them as his own, that may qualify under the tort of conversion if you did not give him permission to take it and he had no legal reason to do it.

For example, if a prison official takes your book and tears it or keeps it for no legitimate reason, and you did not tell him it was okay to touch or take it, you may have a tort claim for trespass to chattels or conversion.⁴⁸ Similarly, a prisoner brought a suit against prison officials when "all his mail and stamps were confiscated, his law books were taken, other personal property including clothing, a bible and prescription medication were removed from his possession without him being given a property slip."⁴⁹

⁴¹ Pope v. State, 1999-2559, p. 2 (La. 6/29/01); 792 So. 2d 713, 714.

⁴² Brown v. State, Through Dep't of Corr., 354 So. 2d 633, 634 (La. App. 1 Cir. 1977).

⁴³ Brown v. State, Through Dep't of Corr., 354 So. 2d 633, 635 (La. App. 1 Cir. 1977) (finding that there was "a causal relationship between the duty, the breach of duty, and the damages suffered by the plaintiff," so the state was responsible for medical negligence).

⁴⁴ FRANK L. MARAIST & THOMAS C. GALLIGAN, JR., LOUISIANA TORT LAW, § 2.07(8) (2013).

⁴⁵ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 12.12 (2d ed., 2016).

⁴⁶ Vernon Valentine Palmer, *The Fate of the General Clause in A Cross-Cultural Setting: The Tort Experience of Louisiana*, 46 LOY. L. REV. 535, 561–562 (2000).

⁴⁷ LOUISIANA CIVIL LAW TREATISE: TORT LAW, § 12.12 (2d ed., 2016).

⁴⁸ Peterson v. Gildon, 40,328, p. 3 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1284, 1287, writ denied, 2006-1098 (La. 10/27/06); 939 So. 2d 1277 (prisoner brought suit against prison officials for allegedly taking his books).

⁴⁹ Gray v. State, 2005-617, p.7 (La. App. 3 Cir. 2/15/06); 923 So. 2d 812, 818.

If your items were stolen from you, you may be able to hold the state responsible for failing to provide adequate security in the area from which your property was taken. If you believe that prison officials have intentionally or negligently taken or destroyed your property without permission or authorization, refer to Part B(1)–(3) above, and to Part C below for remedies. If you believe that your property was destroyed due to negligently maintained prison facilities, *see* Section B(4)(d) below.

d. Negligently Maintained Prison Facilities

As with injuries in the workplace, the state is not responsible for preventing all injuries that could occur on its property.⁵⁰ The state is only responsible for maintaining facilities in a “reasonably safe condition.” To determine what reasonably safe means, a court might consider how likely it was that an injury would occur, how serious that injury was likely to be, and how much it would have cost the state to prevent the injury.

e. Intentional Infliction of Emotional Distress

Intentional infliction of emotional distress occurs when a person’s intentional act makes another person suffer mentally.⁵¹ Intentional infliction of emotional distress is more difficult to prove and still requires that you show an underlying physical injury in addition to your mental suffering.⁵² If someone hurts you, and you suffer physically and mentally, you may be able to bring a claim for intentional infliction of emotional distress with another claim for your physical injury.

f. Excessive Force and Failure to Protect

Perhaps the most common tort lawsuits by prisoners are those alleging that corrections officers used excessive force against them or failed to protect them from other prisoners. “Battery” is when “harmful or offensive contact” occurs.⁵³ This means that someone touches your body in a harmful or offensive way, resulting in an injury.⁵⁴ Particularly important battery claims for prisoners include unjustified body cavity searches or other physical harm from prison guards.⁵⁵ Prisoner claims based on the prison’s or official’s failure to protect are usually caused by other prisoner’s actions.⁵⁶ Actions to recover for excessive force and failure to protect are covered in detail in Chapter 24 of the main *JLM*, “Your Right to be Free From Assault.”

C. PROTECTING YOUR RIGHTS

If you believe you have been injured or your property has been damaged due to someone’s intentional or negligent tort action, you should follow the steps below. This section provides an overview of the ways that you can go about seeking relief for your tort claim. It covers both administrative remedies available through the prison and remedies available through the courts. Start by exhausting any administrative remedies available to you, as detailed in Section 1. If necessary, after exhausting your administrative remedies, you can file a lawsuit, per Sections 2, 3, and 4 below. Finally, Section 5 explains the process to appeal a decision in your lawsuit that is not in your favor.

⁵⁰ *Duhon v. Calcasieu Par. Police Jury*, 517 So. 2d 1016, 1018 (La. App. 3 Cir. 1987).

⁵¹ Vernon Valentine Palmer, *The Fate of the General Clause in A Cross-Cultural Setting: The Tort Experience of Louisiana*, 46 LOY. L. REV. 535, 561 (2000).

⁵² LA. REV. STAT. ANN. § 15:1184(E) (2017).

⁵³ Vernon Valentine Palmer, *The Fate of the General Clause in A Cross-Cultural Setting: The Tort Experience of Louisiana*, 46 LOY. L. REV. 535, 561 (2000).

⁵⁴ Frank L. Maraist, *Of Envelopes and Legends: Reflections on Tort Law*, 61 LA. L. REV. 153, 157 (2000).

⁵⁵ *See Spooner v. E. Baton Rouge Par. Sheriff Dep’t*, 2001-2663, p. 2 (La. App. 1 Cir. 11/8/02); 835 So. 2d 709, 710 (prisoner alleged the Deputy Sheriff committed assault and battery against him).

⁵⁶ *See Poullard v. Michael*, 38,363, p. 1 (La. App. 2 Cir. 4/7/04); 870 So. 2d 481, 481 (prisoner filed a tort suit against prison officials for failure to protect him after he was stabbed by another prisoner and officials had been given advanced warning); *see also Ngo v. Estes*, 2004-186, p.1 (La. App. 3 Cir. 9/29/04); 882 So. 2d 1262, 1263 (prisoner brought suit alleging that prison officials failed to protect him from several unprovoked attacks by another prisoner who had attacked him before).

1. Exhaustion of Administrative Remedies

You must go through the Administrative Remedy Procedure before filing in court. It is likely that there are administrative remedies available to you in prison, but each prison may adopt its own remedies, so you should inquire at your institution.⁵⁷ You should pursue all possible administrative remedies available to you as your first step in seeking a remedy for your tort claim.⁵⁸ Before you even consider filing a claim in state or federal court, as detailed below, you should be sure to exhaust all administrative remedies.⁵⁹ Be sure to initiate your administrative claims within 90 days from the day the injury happened at the latest, or you may not be allowed to bring your claim.⁶⁰ Generally, the rule is that you should bring your claim as soon as possible—the sooner the better. Do not wait until the deadline.

For more information on pursuing your administrative remedies, *see* Chapter 9 of this Supplement, “Administrative Remedy Procedures.” Chapter 14 of the main *JLM*, “The Prison Litigation Reform Act,” may also be helpful.

Once you have exhausted your administrative remedies, if you believe you have not received an adequate remedy to your injury, you can then file a suit in state or federal court as an original claim.

2. Filing an Original Claim in Court

After you have exhausted your administrative remedies, if you are unsatisfied, you may file an original tort claim for injury or damages in federal or state court.⁶¹ This section explains how to do this, step-by-step.

a. Getting Help from a Lawyer

Since a tort claim is a civil action, not a criminal action, you do not have the right to a lawyer.⁶² The court may choose to appoint an attorney to represent you if you are indigent (which means you cannot afford a lawyer) without making you pay for the attorney. But the court does not have to do this. If the court does not give you a lawyer, it may be hard to find a lawyer who will take your case. If it seems likely that you will win a large amount of money from the State, you may be able to find a private attorney to represent you on a “contingency fee” basis. A “contingency fee” means the attorney charges you only if you win the case.⁶³ If you win, the attorney takes his fee, and any other costs of representing you, from your

⁵⁷ LA. REV. STAT. ANN. § 15:1171 (2001), *invalidated by* Pope v. State, 99-2559 (La. 06/29/01); 792 So. 2d 713. Although *Pope* held the administrative remedy exhaustion requirement as applied to tort action unconstitutional, Louisiana courts have still consistently refused to grant judicial review in prisoner-initiated tort cases when administrative remedies have not been exhausted according to the procedures established in §§ 15:1171-15:1179. *See* Walker v. Appurao, 2009-0821, p. 4 (La. App. 1 Cir. 10/23/09); 29 So. 3d 575.

⁵⁸ La. Dist. Ct. R. 60.0(A) (2012).

⁵⁹ LA. REV. STAT. ANN. § 15:1184(A)(2) (2017) (“No prisoner suit shall assert a claim under state law until such administrative remedies as are available are exhausted.”).

⁶⁰ LA. REV. STAT. ANN. § 15:1172(B)(1) (2001) (“An offender shall initiate his administrative remedies for a delictual action for injury or damages within ninety days from the day the injury or damage is sustained.”), *invalidated by* Pope v. State, 99-2559 (La. 06/29/01); 792 So. 2d 713. Although *Pope* held invalid the administrative remedy exhaustion requirement as applied to tort action, Louisiana courts have still consistently refused to grant judicial review in prisoner-initiated tort cases when administrative remedies have not been exhausted, *see* Gray v. State, 2005-617, p. 2 (La. App. 3 Cir. 2/15/06); 923 So. 2d 812, 815; Jackson v. State, 2011-1719, p. 9 (La. App. 1 Cir. 3/23/12); 92 So. 3d 391, 396.

⁶¹ LA. REV. STAT. ANN. § 15:1177(C) (2001) (“Delictual actions for injury or damages shall be filed separately as original civil actions.”), *invalidated by* Pope v. State, 99-2559 (La. 06/29/01); 792 So. 2d 713. Although *Pope* held invalid the administrative remedy exhaustion requirement as applied to tort action, Louisiana courts have still consistently refused to grant judicial review in prisoner-initiated tort cases when administrative remedies have not been exhausted, *see* Garrison v. State *ex rel.* Dep’t. of Corr., 2010-1570, p. 2 (La. App. 1 Cir. 3/25/11).

⁶² In a criminal case, you have the constitutional right to a court-appointed lawyer. The Sixth Amendment to the Constitution guarantees you “the assistance of counsel” in preparing your defense. *See* Douglas v. California, 372 U.S. 353, 357–358, 83 S. Ct. 814, 816–817, 9 L. Ed. 2d. 811, 814–815 (1963) (finding that a state must provide counsel for an indigent defendant in a first appeal from a criminal conviction).

⁶³ Black’s Law Dictionary 362 (9th ed., 2009).

award. Usually the attorney's fee will be a percentage of the money you win.⁶⁴ If you would like to try to find a lawyer to help you with your tort claim, see Chapter 4 of the main *JLM*, "How to Find a Lawyer," for information on how to get a lawyer. You may also be able to find an attorney through local Louisiana associations of attorneys. In the Appendix, you can find contact information for different Louisiana associations that may be able to help you if you explain your situation. If you get a lawyer, he should know the procedures explained below, but you should still read them carefully so you know the steps you and he will be following.

If you cannot find a lawyer, you may represent yourself. This is called proceeding *pro se*. For more information on proceeding *pro se*, see Chapter 6 of the main *JLM*, "An Introduction to Legal Documents," Part A, "The Right and Responsibilities of Self-Representation." If you choose to represent yourself, carefully read and follow the steps explained below.

b. Choosing Federal or State Court

When you are ready to bring a lawsuit, the first step is choosing the court to bring the lawsuit in. For more information on choosing a court, read Chapter 5 of the main *JLM*, "Choosing a Court and a Lawsuit: An Overview of the Options." The information below is most useful for a tort claim.

If you are in a federal prison and the tort happened in the federal prison, you should file in the Federal District Court under the Federal Tort Claims Act. For instructions on how to file a tort claim in federal district court, read Chapter 17 of the main *JLM*, "The State's Duty to Protect You and Your Property: Tort Actions."

If you are in a Louisiana state prison, the tort happened there, and you have used all of your administrative remedies but they did not work, you may be able to file suit in the State District Court.⁶⁵ It is very hard to win in a tort suit, so make sure your case is strong before you bring a suit. Once you choose to bring a suit, the first thing you need to do is find your district court. You should file your claim in the district court of the district where the tort happened. This means you should file in the district where your prison is at the time the tort happened.⁶⁶ In the Appendix, you will find a map of all the state districts. You can use this map to find out which district your prison is in. You will see that the map has a number in each district. The numbers on the map are the numbers of each district in the list of all the state districts. This list is organized by parish and is also in the Appendix.

c. Whom You Can Sue

You may file a tort action in state court against a person who deliberately or carelessly injured you. Deliberately means someone chose to hurt you and knew that you would be hurt. Carelessly means they did not care that you would be hurt. You can also file a tort suit against someone who broke or damaged your property. Because the tort happened in prison, you can choose who you want to bring a tort suit against: a prison guard or prison official, a private prison, or the State or State officials.⁶⁷

Most of the time, bringing a suit against an individual is easy. But it is harder to bring a suit against a prison guard, official, the State, or a state official. If you bring a suit against a prison guard or official, a rule called *respondeat superior* will likely apply. *Respondeat superior* means that both the

⁶⁴ Black's Law Dictionary 362 (9th ed., 2009).

⁶⁵ LA. REV. STAT. ANN. § 15:1184(A)(2) (2017) ("No prisoner suit shall assert a claim under state law until such administrative remedies as are available are exhausted.")

⁶⁶ LA. REV. STAT. ANN. § 15:1184(F) (2017) ("The exclusive venue for delictual actions for injury or damages shall be the parish where the prison is situated to which the prisoner was assigned when the cause of action arose. Upon consent of all parties, the court may transfer the suit to a parish in which venue would otherwise be proper.")

⁶⁷ See *Gray v. State*, 2005-617, p. 1 (La. App. 3 Cir. 2/15/06); 923 So. 2d 812, 814 (prisoner brought suit against correctional center, warden, and other officials); see also *Pope v. State*, 1999-2559, p. 1 (La. 6/29/01); 792 So. 2d 713, 714 (prisoner brought action against the State of Louisiana); see also *Peterson v. Gildon*, 40,328, p. 1 (La. App. 2 Cir. 12/30/05); 917 So. 2d 1284, 1286, *writ denied*, 2006-1098 (La. 10/27/06); 939 So. 2d 1277 (prisoner brought suit against corrections official and wardens).

person you brought the claim against and the State itself are liable for the tort.⁶⁸ Liable means that the person and the State are responsible for the tort. It is like being guilty in a criminal case. If you bring a suit against the prison or any relevant local government officials, the State will likely be liable for the tort as well.⁶⁹ Officials may also be held liable under *respondeat superior* when other prisoners injure you.⁷⁰ Luckily, Louisiana has said in its Constitution that courts can find the State responsible for tort actions.⁷¹

Of course, the facts of your case are very important. The court will look at the facts when it decides whether the State is liable for your injury.⁷² In the past, officers and the State have been held responsible for intentional torts they caused. Intentional torts are torts that the officer or State meant to do. Officers and the State have also been held responsible for negligent torts.⁷³ Negligent torts mean a tort that happened because the officer or State did not do their job right. Officers and the State have a duty to keep you and other prisoners safe. If they do not do this, then they are negligent. If this causes you to be injured, then you may sue the officer and the State for a negligent tort.

d. Types of Relief

If you prove that you were the victim of a tort, whether intentional or negligent, the court will order the tortfeasor to compensate you for the loss you suffered. Compensating you means paying you back for the harm done. Most often it means the tortfeasor pays you money. This court-ordered payment is called *damages*.⁷⁴ A court may award you three kinds of damages: compensatory, punitive, and nominal.⁷⁵ You do not need to tell the court the amount of money you want. But you can ask the court to give you the amount of damage the court thinks is reasonable and the court will award the right amount.⁷⁶ The court can also give you injunctive relief. This means the court orders the tortfeasor to stop doing whatever is injuring you or damaging your property.

i. *Compensatory Damages*

Compensatory damages are the most common type of damages. Compensatory damages try to match the amount of your loss.⁷⁷ The court can order payment for your property damages or order payments to compensate you for your pain and suffering. These damages can also pay you back for the period after the injury when you are still suffering.⁷⁸ For example, look at the case of the prisoner who had to have most of his stomach taken out from Part B(4)(b) above. The court awarded the prisoner money to compensate for the fact that he would live the rest of his life with only a third of his stomach; he had to change how he lived his life and how he ate because of his smaller stomach.⁷⁹

⁶⁸ LA. CIV. CODE ANN. art. 2320 (1996) (“Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.”); *see also* *Zeitoun v. City of New Orleans*, 2011-0479, p. 14 (La. App. 4 Cir. 12/7/11); 81 So. 3d 66, 76, *reh’g denied* (Jan. 19, 2012) (plaintiffs “failed to satisfy their burden to establish a cause of action . . . under the theory of *respondeat superior*”).

⁶⁹ *See* David W. Robertson, *Tort Liability of Governmental Units in Louisiana*, 64 TUL. L. REV. 857, 876 (1990).

⁷⁰ *Duhon v. Calcasieu Par. Police Jury*, 517 So. 2d 1016 (La. App. 3 Cir. 1987) (holding sheriff liable under *respondeat superior* for prisoner’s injury caused by another prisoner’s negligent driving of a tractor).

⁷¹ LA. CONST. art. XII, § 10 (“Neither the state, a state agency, nor a political subdivision shall be immune from suit and liability in contract or for injury to person or property.”).

⁷² *State ex rel. Jackson v. Phelps*, 95-2294, p. 3 (La. 4/8/96); 672 So. 2d 665, 667 (“Whether the state breached its duty will depend on the facts and circumstances of each case.”).

⁷³ *Barlow v. City of New Orleans*, 257 La. 91, 99, 241 So. 2d 501, 504 (1970).

⁷⁴ *Black’s Law Dictionary* 445 (9th ed., 2009).

⁷⁵ For more information on damages, *see* Chapter 16 of the main *JLM*, “Using 42 U.S.C. § 1983 and 28 U.S.C. § 1331 to Obtain Relief from Violations of Federal Law.”

⁷⁶ LA. CODE CIV. PROC. ANN. art. 893 (2017) (“No specific monetary amount of damages shall be included in the allegations or prayer for relief of any original, amended, or incidental demand. The prayer for relief shall be for such damages as are reasonable . . .”).

⁷⁷ *Compensatory Damages*, *Black’s Law Dictionary* (10th ed., 2014).

⁷⁸ *Compensatory Damages*, *Black’s Law Dictionary* (10th ed., 2014) (defining “discretionary damages” as damages “such as mental anguish or pain and suffering”).

⁷⁹ *Brown v. State, Through Dep’t. of Correction*, 354 So. 2d 633, 635–636 (La. App. 1 Cir. 1977).

ii. *Punitive Damages*

Punitive damages are court-ordered payments that are more than compensatory damages. They are extra damages.⁸⁰ These damages are generally awarded when the court thinks the tort was “aggravated” or made worse. A tort can be aggravated, or made worse, by violence, oppression, malice, fraud, or wanton and wicked conduct by the tortfeasor.⁸¹ Oppression means cruel treatment. Malice means the tortfeasor meant to harm you. Fraud means the tortfeasor lied to or tricked you or someone. Wanton and wicked conduct means the tortfeasor acted badly.

Punitive damages are meant to punish the tortfeasor. They are not meant to pay you back for your injury.⁸²

iii. *Nominal Damages*

Nominal damages are very small amounts of money. A court will give you nominal damages if they think your right has been violated, but you have no injury the court can order compensation for.⁸³ A court may also give you nominal damages when you have an injury, but the evidence doesn't show how injured you were.⁸⁴

iv. *Injunctive Relief*

Other than these monetary awards, the court may order the tortfeasor to take or stop certain actions.⁸⁵ This is called an *injunction*.⁸⁶

3. **Filing Requirements**

a. Time Limit

You have to file your lawsuit within one year of the injury. The only exception is if you did not know about the injury because of something out of your control.⁸⁷ This means that on the day you are injured, the clock begins ticking and you must file your claim within a year. Like with administrative remedies, the sooner you file, the better. So, do not wait to the last minute to file.

⁸⁰ Black's Law Dictionary 474 (10th ed., 2014).

⁸¹ See RESTATEMENT (SECOND) OF TORTS § 908 (Am. Law Inst. 1979) (“(1) Punitive damages are damages, other than compensatory or nominal damages, awarded against a person to punish him for his outrageous conduct and to deter him and others like him from similar conduct in the future. (2) Punitive damages may be awarded for conduct that is outrageous, because of the defendant's evil motive or his reckless indifference to the rights of others. In assessing punitive damages, the trier of fact can properly consider the character of the defendant's act, the nature and extent of the harm to the plaintiff that the defendant caused or intended to cause and the wealth of the defendant.”).

⁸² *Punitive Damages*, Black's Law Dictionary (10th ed., 2014).

⁸³ *Nominal Damages*, Black's Law Dictionary (10th ed., 2014).

⁸⁴ *Nominal Damages*, Black's Law Dictionary (10th ed., 2014).

⁸⁵ LA. REV. STAT. ANN. § 15:1182(B) (2017) (“In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm Preliminary injunctive relief shall automatically expire ninety days after its entry, unless the court makes the findings required under Subsection A for the entry of prospective relief and makes the order final before the expiration of the ninety-day period.”).

⁸⁶ For more discussion of injunctive relief, see Chapter 16 of the main *JLM*, “Using 42 U.S.C. § 1983 and 28 U.S.C. § 1331 to Obtain Relief from Violations of Federal Law.”

⁸⁷ LA. CIV. CODE ANN. art. 3492 (2017) (“Delictual actions are subject to a liberative prescription of one year. This prescription commences to run from the day injury or damage is sustained.”); *Corsey v. State*, 375 So. 2d 1319, 1322 (La. 1979).

The only exception to this time limit is if you reasonably did not know about your injury because of something you could not control.⁸⁸ For example, if the tortious action caused you to be mentally unaware for a period of time, your one year time limit will likely be extended to one year after you are better and can learn about the injury and file a claim.⁸⁹

You may have to file your lawsuit later than one year after the injury because you first used administrative remedies. If this happens, a court might still allow you to file your lawsuit if you do it right after trying your administrative remedies.⁹⁰

b. Documents to File

When you are ready to bring your lawsuit, you must write a document called a *pleading*.⁹¹ There are no technical requirements for your pleading, but you should make sure to keep it simple.⁹² Make separate paragraphs for every topic or idea you cover, and number each paragraph.⁹³ In this pleading, you should include:

- 1) Your First and Last Names;
- 2) The Place Where You Are Currently Incarcerated (address);
- 3) What Happened (include all the facts and be sure to include Time and Place);⁹⁴
- 4) The Extent of Your Injury or Property Damage (how injured you are or how damaged your property is);⁹⁵
- 5) The Type of Suit You Are Bringing;
- 6) Your Address for Receiving Mail/Packages; and
- 7) The Type of Relief You Want (monetary relief or an injunction).⁹⁶

Once you have finished writing your pleading, sign your name on the bottom of the pleading and include your mailing address.⁹⁷ Your signature is your promise that you are not filing the suit for a wrong purpose (such as to harass an official or to scam the system). Your signature is also a statement that your suit is not frivolous.⁹⁸ A suit is frivolous if it is not serious or has no real purpose. Make a copy of your pleading for you to keep. Also, make a copy of the final agency decision you got from your exhaustion of administrative remedies, as explained above. Attach the copy of the final agency decision to your pleading. When you send your documents to court (as explained below), make sure you send the pleading and the agency decision together, and be sure you keep a copy of each.

If for some reason you need to change or add onto what you wrote in your pleading, you may do so once without permission from the court. This must be done before you get an answer from the defendant to your pleading.⁹⁹ Send an amended (or edited) pleading, with the same information you included in your pleading, but with any changes you had to make.

c. Where and How to File

You should file these documents in the Clerk's Office of the District Court where your prison is at the time the tort happened. You can use the map in the Appendix to locate the right district court. The Appendix also contains a list of the contact information for the District Court's Clerk's Offices. You can

⁸⁸ LA. CIV. CODE ANN. art. 3492 (2017); *Corsey v. State*, 375 So. 2d 1319, 1322 (La. 1979).

⁸⁹ *Corsey v. State*, 375 So. 2d 1319, 1322 (La. 1979).

⁹⁰ *Harris v. Hegmann*, 198 F.3d 153, 158 (5th Cir. 1999).

⁹¹ LA. CODE CIV. PROC. ANN. art. 854 (2017).

⁹² LA. CODE CIV. PROC. ANN. art. 854 (2017).

⁹³ LA. CODE CIV. PROC. ANN. art. 854 (2017).

⁹⁴ LA. CODE CIV. PROC. ANN. art. 860 (2017).

⁹⁵ LA. CODE CIV. PROC. ANN. art. 861 (2017).

⁹⁶ LA. CODE CIV. PROC. ANN. art. 891 (2017).

⁹⁷ LA. CODE CIV. PROC. ANN. art. 863 (2017).

⁹⁸ LA. CODE CIV. PROC. ANN. art. 863(B) (2017).

⁹⁹ LA. CODE CIV. PROC. ANN. art. 1151 (2017).

look at the section above on Filing in State Court for more information on finding the right district court. You should be able to file your documents by sending them to the Clerk's Office through the prison mail system.

d. Fees

When you file your initial documents, the Clerk's Office will charge you an initial filing fee of up to \$105.00.¹⁰⁰ If you cannot pay the filing fee right away, you may be able to proceed *in forma pauperis*. *In forma pauperis* means bringing suit without prepaying fees.¹⁰¹ If you can't pay the filing fee right away, you should also file the Application to Proceed in Forma Pauperis. You can find this application in the Appendix, labeled Form 60.7A.

This form has five pages, but you only need to fill out the first two to begin. In the middle of the first page, after it says, "NOW INTO COURT COMES," write your name in the blank that follows. Below that paragraph, write the date, sign your name, and provide your Department of Corrections ("D.O.C.") number. On the next two lines, write the name of your facility and the address of your facility. At the bottom of the first page, where it says, "I,____," write in your name again. This says that you cannot afford the costs of the proceeding. On the second page, answer questions one through five about your financial situation. At the bottom of the second page, you need to write the date, sign your name, and give your D.O.C. number.

The form then requires signatures from three more people: a notary, an affiant, and an officer at your facility. First, a notary public or another person authorized to administer oaths must sign the form on page three and write their title and identification number. Second, an affiant, or someone who can testify to your inability to pay court costs, must sign their name and write the date on page three in front of the notary. Third, an authorized officer at your facility must certify the amount of credit you have in your account, listing the amounts in your Prison Drawing Account and Prison Savings Account, and how much cash and bonds you possess. They must also write the average monthly deposit and balance amounts, write the date, and sign their name. A judge or commissioner then fills out the rest of the form once you have submitted it.

If you end up needing to appeal your suit (as detailed in Section 5 below), you will have to use and file the Motion to Proceed in Forma Pauperis, which you can also find in the Appendix, labeled Form 60.7B.

This form has six pages, but you only need to fill out the first two and part of the third. In the middle of the first page, after it says, "NOW INTO COURT COMES," write your name in the blank that follows. Below that paragraph, write the date, sign your name, and write your D.O.C. number. On the next two lines, write the name of your facility and the address of your facility. At the top of the second page, where it says, "I,____," write in your name. This says that you cannot afford the costs of the proceeding. On the same page, answer questions one through five about your financial situation. At the top of the third page, you need to write the date, sign your name, and give your D.O.C. number.

The form then requires signatures from three more people: a notary, an affiant, and an officer at your facility. First, a notary public or another person authorized to administer oaths must sign the form on page three and write their title and identification number. You must also sign your name and write your D.O.C. number on page three in front of the notary. Second, an affiant, or someone who can testify to your inability to pay court costs, must sign their name and write the date on page three in front of the notary. Third, an authorized officer at your facility must certify the amount of credit you have in your account, listing the amounts in your Prison Drawing Account and Prison Savings Account, and how much cash and bonds you possess. They must also write the average monthly deposit and balance amounts, write the date, and sign their name. A judge or commissioner then fills out the rest of the form once you have submitted it.

¹⁰⁰ LA. CODE CIV. PROC. ANN. art. 5181 (2017).

¹⁰¹ LA. REV. STAT. ANN. § 15:1186 (2017).

If you can bring the suit *in forma pauperis*, the court will decide an initial, partial filing fee and charge you that amount.¹⁰² The court will collect the rest of the filing fee when you have enough funds in your account.¹⁰³ If the court does not let you to proceed *in forma pauperis*, you must pay the filing fee before the suit begins.¹⁰⁴ If you do not, your lawsuit will be dismissed.¹⁰⁵ If the court dismisses your suit, that means they end the suit and will not look at it.

4. Procedure in State District Court

Once a Clerk's Office gets your pleading, the court will look over it.¹⁰⁶ If the court thinks that your complaint is frivolous or malicious, it may dismiss all or part of your complaint.¹⁰⁷ Frivolous means that the court thinks the suit does not have a serious purpose. Malicious means the court thinks you are trying to harm or annoy someone with your suit. If you have stated a proper claim, your complaint will be sent to the person you brought the lawsuit against.¹⁰⁸ This person is also called the *defendant*.¹⁰⁹ When the defendant replies to your pleading or the court needs to speak with you, you will get the reply or court message by mail.¹¹⁰ The defendant will file an answer to your complaint within fifteen days from when he gets it.¹¹¹ In his answer, the defendant will either admit or deny what you said he did.¹¹² He will also provide any defenses he has for his actions.¹¹³

Then you will write a written request for a pre-trial conference.¹¹⁴ When you send this in to the Clerk's Office, if you are representing yourself in your case, you should also send the Self-Represented Prisoner-Plaintiff's Portion of the Pre-Trial Order, which you can find in the Appendix, called Form 60.4.¹¹⁵

On this form, where it says, "Plaintiff," you need to fill in your name, your D.O.C. Number, your facility's name, and its address. Next, where it says, "Plaintiff's Claim," you should write what happened, when it happened (including the date and time), where it happened, who was involved, and who, if anyone, saw what happened. Where it says, "Contested Facts," include whatever facts the tortfeasor argues did not happen. If the tortfeasor disagrees about any legal issues (like the meaning of the law or your rights, rather than just the facts of what happened), then you should write them in the section entitled, "Contested Issues of Law." If you have any physical pieces of evidence about what happened, you should list them on the left side of the "Plaintiff's Exhibits" section. On the right side of the "Plaintiff's Exhibits" section, explain what each item will show the court. Under the "Plaintiff's Witnesses" section, on the left side, you should give the names and addresses of anyone who saw what happened (these people are called "witnesses"). On the right side, write what each witness will tell the court (this is called "testimony"). Below that section, write the date and be sure to sign your name.

Below the section called "Plaintiff's Witnesses" is a section called "Certificate of Service." You must send a copy of this form to the opposing counsel, and this section requires you to confirm that you have done so. In the first blank, write the name of the counsel representing the tortfeasor. In the second

¹⁰² LA. CODE CIV. PROC. ANN. art. 5181 (2017).

¹⁰³ LA. REV. STAT. ANN. § 15:1186 (2017).

¹⁰⁴ LA. REV. STAT. ANN. § 15:1186 (2017).

¹⁰⁵ LA. REV. STAT. ANN. § 15:1186 (2017).

¹⁰⁶ LA. REV. STAT. ANN. § 15:1188 (2017).

¹⁰⁷ LA. REV. STAT. ANN. § 15:1188 (2017).

¹⁰⁸ LA. REV. STAT. ANN. § 15:1188 (2017).

¹⁰⁹ LA. CODE CIV. PROC. ANN. art. 1312 (2017).

¹¹⁰ LA. CODE CIV. PROC. ANN. art. 1313 (2017).

¹¹¹ LA. CODE CIV. PROC. ANN. art. 1001 (2017).

¹¹² LA. CODE CIV. PROC. ANN. art. 1003 (2017).

¹¹³ LA. CODE CIV. PROC. ANN. art. 1005 (2017).

¹¹⁴ La. Dist. Ct. R. 60.4(D) and (E) (2012), available at <http://www.lasc.org/rules/dist.ct/TitleVI.asp> (last visited Jan. 11, 2018).

¹¹⁵ La. Dist. Ct. R. 60.4(D) and (E) (2012), available at <http://www.lasc.org/rules/dist.ct/TitleVI.asp> (last visited Jan. 11, 2018).

blank, write that counsel's address. Sign your name at the bottom of this section on the line that is above the word "Plaintiff."

After the court gets this form, it will schedule a pretrial conference. At this conference you will talk about scheduling with the judge. You will also talk about any issues that may come up before or at trial.¹¹⁶ You do not necessarily have the right to appear in court for the pretrial conference.¹¹⁷ The conference will probably be conducted by phone or video conference, or at your prison facility.¹¹⁸

Next, you will do discovery and subpoena any witnesses as necessary. Discovery means the process of finding any proof of your claim. This means proof of the act and your injury. For more information on Discovery in Louisiana, read Chapter 1: Your Right to Information. For information on Discovery in general, read Chapter 8 of the main *JLM*, "Obtaining Information to Prepare Your Case: The Process of Discovery." If you know of anyone who saw the injury or damage happen, that person is called a *witness*.¹¹⁹ You are allowed to have up to six witnesses speak about what they saw happen.¹²⁰ If you ask, the clerk or the judge can issue a "subpoena," which is a document requiring that person to come to speak at your hearing or trial.¹²¹

If you brought a tort claim against the state, or an agent of the state or facility, the state or facility might want to settle the claim with you outside of court during this process or before a trial occurs. When the state offers you a settlement, it is not necessarily agreeing that it did something wrong. The state is offering to pay you a certain amount of money instead of going to trial. If the state, agent or facility offers you a settlement, you must decide whether or not to agree to the settlement. When you agree to a settlement with the state, you give up your right to ask the court for more damages. But, if you reject the settlement, go to trial, and do not think the court gave you enough damages, you may then appeal.

After discovery, the judge will hold a trial if the case needs one.¹²² At this trial, you are the plaintiff. This means you are the person making the complaint. You, as the plaintiff, have the right to appear at your trial. The trial will probably happen like this:

- 1) You, as the plaintiff, make an opening statement. The opening statement is your brief explanation of the case and why you should win. Then the person you are suing, as the defendant, makes an opening statement.
- 2) You present your evidence. Then the defendant presents his evidence.
- 3) If you have any evidence that challenges the defendant's evidence, you can present it.
- 4) You present your argument. Then, the defendant presents his argument. Next, you can make points that challenge the defendant's argument if you need to.¹²³

After the trial the judge will give his opinion (judgment) on your case and decide whether you win or not.¹²⁴ You may receive the judgment right away while at trial, or the judge may continue to think about your case and send you his judgment in the mail.¹²⁵ This judgment is final.¹²⁶ If you honestly believe there was a mistake in the judgment, you can appeal using the process detailed below.

¹¹⁶ LA. CODE CIV. PROC. ANN. art. 1551 (2017).

¹¹⁷ LA. REV. STAT. ANN. § 15:1184(D) (2017) ("pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which he is confined.").

¹¹⁸ LA. REV. STAT. ANN. § 15:1184(D) (2017).

¹¹⁹ Black's Law Dictionary 1740 (9th ed., 2009).

¹²⁰ La. Dist. Ct. R. 60.4(E) (2012), *available at* <http://www.lasc.org/rules/dist.ct/TitleVI.asp> (last visited Jan. 11, 2018).

¹²¹ LA. CODE CIV. PROC. ANN. art. 1351 (2017).

¹²² Currently, unless your damages are worth at least \$50,000, you do not have a right to a jury trial. LA. CODE CIV. PROC. ANN. art. 1732 (2017).

¹²³ LA. CODE CIV. PROC. ANN. art. 1632 (2017).

¹²⁴ LA. CODE CIV. PROC. ANN. art. 862 (2017); LA. CODE CIV. PROC. ANN. art. 1841 (2017).

¹²⁵ LA. CODE CIV. PROC. ANN. art. 1637 (2017).

¹²⁶ LA. CODE CIV. PROC. ANN. art. 862 (2017); LA. CODE CIV. PROC. ANN. art. 1841 (2017).

After you receive the judgment, if you win, the judge will issue the injunction or an order directing the individual, facility, or state to pay you the amount of money owed to you. If you had been previously ordered to pay restitution to someone from a previous judgment against you, the money you are supposed to receive will go to any unpaid restitution orders first.¹²⁷ If there is money left over, you will get a check in the mail shortly after. If you do not receive the check after a reasonable period of time (wait several weeks), you should send a letter to the court Clerk's office, with a copy of the judgment you received and a note explaining that you did not receive the right check.

5. Appeal

If you did not win, or if you won but you honestly believe the relief you got is not the right amount, you can appeal the judgment. You can appeal the court's decision about the law, the facts, or both. You can also appeal if the amount awarded was too high or too low. When you make an appeal, the Court of Appeals may affirm, reverse, or change the judgment. The Court of Appeals may also dismiss the appeal, grant a new trial, or send the case back to a lower court for more proceedings.¹²⁸

D. CONCLUSION

If someone does something that causes you an injury or causes damage to your property, you may have a tort claim. You should think about several things before you bring a tort claim. First, you should figure out what kind of tort claim you want to bring and whether you can prove that you have suffered an actual injury. If you are confident that you have a real claim, be sure to use the grievance procedures in your prison first. After using those procedures, if you feel that your injury or damage has not been solved, then you may be able to bring a lawsuit in the district court. Think about the court in which you will file a claim and the kind of relief you will seek. Meet all deadlines for filing documents, make sure you file the right documents in the right places, and pay the proper fees. Finally, always keep photocopies of all of the documents you file.

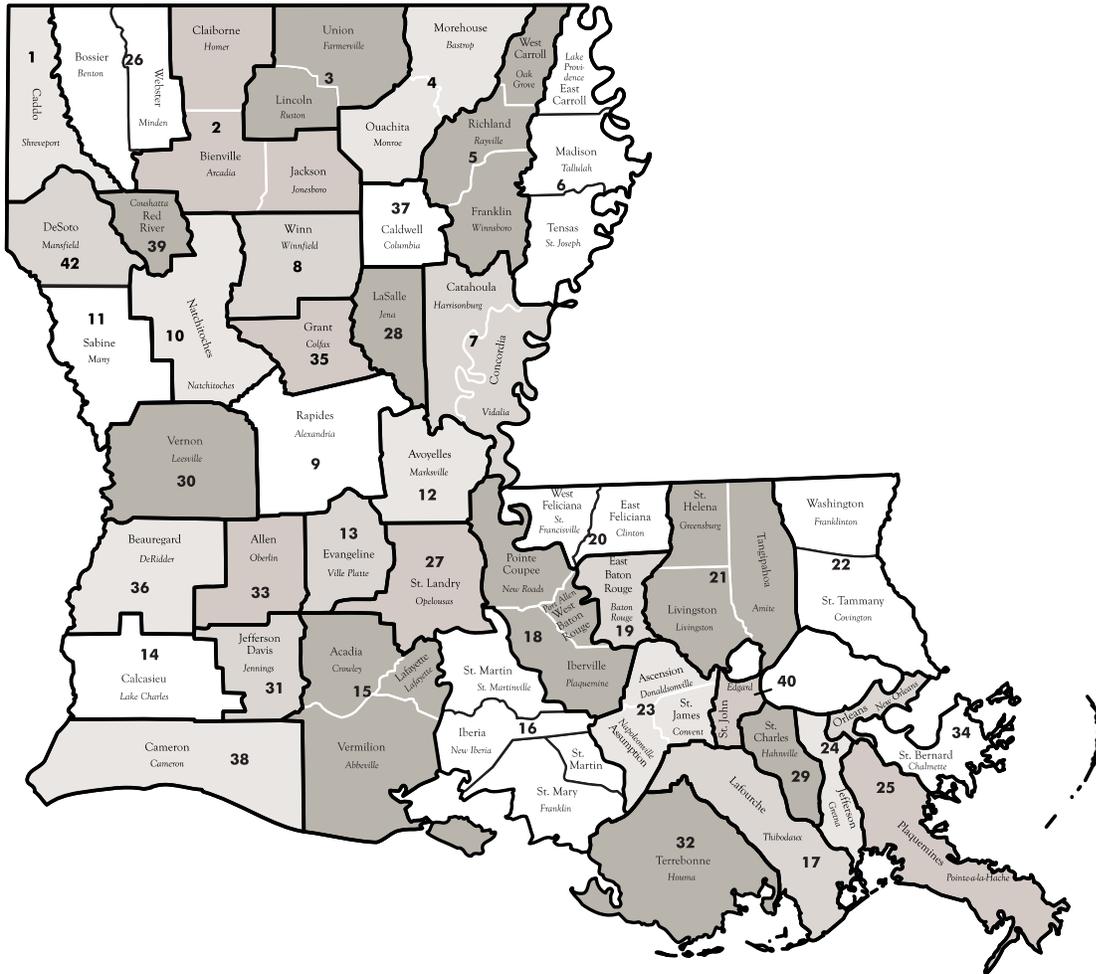
¹²⁷ LA. REV. STAT. ANN. § 15:1189 (2017) ("Any damages awarded to a prisoner in connection with a civil action brought against any prison or against any official or agent of such prison shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.").

¹²⁸ For more information on the process of an appeal, see Chapter 9 of the main *JLM*, "Appealing Your Conviction or Sentence." Though you are not appealing a criminal conviction as detailed in that Chapter, the process itself should be similar.

APPENDIX A¹²⁹

DISTRICT COURT INFORMATION AND FORMS

1. Map of Districts¹³⁰



¹²⁹ La. Dist. Ct. R. 60 (2012), available at <http://www.lasc.org/rules/dist.ct/TitleVIAppendicesList.asp> (last visited Jan. 11, 2018).

¹³⁰ Louisiana District Courts Judicial Districts, available at http://www.lasc.org/about_the_court/map01.asp (last visited Jan. 11, 2018).

2. Contact Information for Districts¹³¹

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**FOR ADDITIONAL CONTACT INFORMATION FOR PARISH COURTHOUSES, *SEE* CHAPTER 1,
APPENDIX A, "YOUR RIGHT TO INFORMATION"**

.....

ACADIA; 15TH JUDICIAL DISTRICT COURT

Acadia Parish Courthouse
Court Circle
Crowley, La. 70526
Clerk of Court
P.O. Box 922
Crowley, La. 70527-9022
(337) 788-8881

ALLEN; 33RD JUDICIAL DISTRICT COURT

Allen Parish Courthouse
Main Street
Oberlin, La. 70665
Clerk of Court
P.O. Box 248
Oberlin, LA 70665
(337) 639-4351

ASCENSION; 23RD JUDICIAL DISTRICT COURT

Ascension Parish Courthouse
Courthouse Building
Houmas Street
Donaldson, La. 70346
Clerk of Court
P.O. Box 192
Donaldsonville, La. 70346-0192
(225) 473-9866

ASSUMPTION; 23RD JUDICIAL DISTRICT COURT

Assumption Parish Courthouse
Highway 1
Courthouse Building
Napoleonville, La. 70390
Clerk of Court
P.O. Drawer 249
Napoleonville, La. 70390-0249
(985) 369-6653

AVOYELLES; 12TH JUDICIAL DISTRICT COURT

Avoyelles Parish Courthouse
Main Street
Marksville, La. 71351
Clerk of Court
P.O. Box 219

¹³¹ District Courts (listed by parish), *available at* <http://www.lasc.org/links.asp#DistrictCourts> (last visited Jan. 11, 2018).

Marksville, La. 71351-0219
(318) 253-7523

BEAUREGARD; 36TH JUDICIAL DISTRICT COURT

Beauregard Parish Courthouse
201 West First St.
DeRidder, La. 70634
Clerk of Court
P.O. Box 100
DeRidder, La. 70634
(337) 463-8595

BIENVILLE; 2ND JUDICIAL DISTRICT COURT

Bienville Parish Courthouse
100 Courthouse Drive
Arcadia, La. 71001
Clerk of Court
100 Courthouse Drive, Room 100
Arcadia, La. 71001-3617
(318) 263-2123

BOSSIER; 26TH JUDICIAL DISTRICT COURT

Bossier Parish Courthouse
Burt Ave.
Benton, La. 71006
Clerk of Court
P.O. Box 430
Benton, La. 71006
(318) 965-2336

CADDO; 1ST JUDICIAL DISTRICT COURT

Caddo Parish Courthouse
501 Texas St.
Shreveport, La. 71101-5408
Clerk of Court
501 Texas St.
Caddo Parish Courthouse, Room 103
Shreveport, La. 71101-5408
(318) 226-6751

CALCASIEU; 14TH JUDICIAL DISTRICT COURT

Calcasieu Parish Judicial Center
1001 Lakeshore Drive
P.O. Box 3210
Lake Charles, La. 70602
(337) 437-3530

Calcasieu Parish Courthouse
1000 Ryan Street
Lake Charles, La. 70601

Clerk of Court

P.O. Box 1030
Lake Charles, La. 70602-1030
(337) 437-3550

CALDWELL; 37TH JUDICIAL DISTRICT COURT

Caldwell Parish Courthouse

Main Street

Columbia, La. 71418

Clerk of Court

P.O. Box 1327

Columbia, La. 71418-1327

(318) 649-2272

CAMERON; 38TH JUDICIAL DISTRICT COURT

Cameron Parish Courthouse

Courthouse Square, Smith Circle

Cameron, La. 70631

Clerk of Court

P.O. Box 549

Cameron, La. 70631

(337) 775-5316

CATAHOULA; 7TH JUDICIAL DISTRICT COURT

Catahoula Parish Courthouse

Courthouse Square

Harrisonburg, La. 71340

Clerk of Court

P.O. Box 654

Harrisonburg, La. 71340-0654

(318) 744-5497

CLAIBORNE; 2ND JUDICIAL DISTRICT COURT

Claiborne Parish Courthouse

514 N. Main St.

Homer, La. 71040

Clerk of Court

P.O. Box 330

Homer, La. 71040-0330

(318) 927-9601

CONCORDIA; 7TH JUDICIAL DISTRICT COURT

Concordia Parish Courthouse

#1 Advocate Row, Ferriday-Vidalia Highway

Vidalia, La. 71373

Clerk of Court

P.O. Box 790

Vidalia, La. 71373-0790

(318) 336-4204

DE SOTO; 42ND JUDICIAL DISTRICT COURT

DeSoto Parish Courthouse

Courthouse Square

Mansfield, La. 71052

Clerk of Court

P.O. Box 1206

Mansfield, La. 71052-1206

(318) 872-3110

EAST BATON ROUGE; 19TH JUDICIAL DISTRICT COURT

East Baton Rouge Courthouse

300 North Boulevard
Baton Rouge, La. 70801
Clerk of Court
P.O. Box 1991
Baton Rouge, La. 70821
(225) 389-3960

EAST CARROLL; 6TH JUDICIAL DISTRICT COURT

East Carroll Parish Courthouse
400 1st Street
Lake Providence, La. 71254
Clerk of Court
400 1st Street, Suite 3
Lake Providence, La. 71254-2695
(318) 559-2399

EAST FELICIANA; 20TH JUDICIAL DISTRICT COURT

East Feliciana Parish Courthouse
St. Helena St., Courthouse Square
Clinton, La. 70722
Clerk of Court
P.O. Drawer 599
Clinton, La. 70722-0599
(225) 683-5145

EVANGELINE; 13TH JUDICIAL DISTRICT COURT

Evangeline Parish Courthouse
200 Court Street, Suite 200
Ville Platte, La. 70586
Clerk of Court
P.O. Drawer 347
Ville Platte, La. 70586-0347
(337) 363-5671

FRANKLIN; 5TH JUDICIAL DISTRICT COURT

Franklin Parish Courthouse
208 Main Street
Winnsboro, La. 71295
Clerk of Court
P.O. Box 1564
Winnsboro, La. 71295-1564
(318) 435-5133

GRANT; 35TH JUDICIAL DISTRICT COURT

Grant Parish Courthouse
200 Main Street
Colfax, La. 71417
Clerk of Court
P.O. Box 263
Colfax, La. 71417-0263
(318) 627-3246

IBERIA; 16TH JUDICIAL DISTRICT COURT

Iberia Parish Courthouse
300 Iberia Street
New Iberia, La. 70560

Clerk of Court

P.O. Box 12010
New Iberia, La. 70562-2010
(337) 365-7282

IBERVILLE; 18TH JUDICIAL DISTRICT COURT

Iberville Parish Courthouse
600 Meriam
Plaquemine, La. 70764
Clerk of Court
P.O. Box 423
Plaquemine, La. 70764
(225) 687-5160

JACKSON; 2ND JUDICIAL DISTRICT COURT

Jackson Parish Courthouse
500 East Court
Jonesboro, La. 71251
Clerk of Court
P.O. Drawer 730
Jonesboro, La. 71251
(318) 259-2424

JEFFERSON; 24TH JUDICIAL DISTRICT COURT

Jefferson Parish Courthouse
Second & Derbigny Streets
Gretna, La. 70053
Clerk of Court
P.O. Box 10
Gretna, La. 70054-0010
(504) 364-2900

JEFFERSON DAVIS; 31ST JUDICIAL DISTRICT COURT

Jefferson Davis Parish Courthouse
300 State Street
Jennings, La. 70546
Clerk of Court
P.O. Box 700
Jennings, La. 70546-0799
(337) 824-1160

LAFAYETTE; 15TH JUDICIAL DISTRICT COURT

Lafayette Parish Courthouse
800 South Buchanan St.
Lafayette, La. 70501
Clerk of Court
P.O. Box 2009
Lafayette, La. 70502-2009
(337) 291-6400

LAFOURCHE; 17TH JUDICIAL DISTRICT COURT

Lafourche Parish Courthouse
303 W. Third Street
Thibodaux, La. 70301
Clerk of Court
P.O. Box 818

Thibodaux, La. 70302-0818
(985) 447-4841

LASALLE; 28TH JUDICIAL DISTRICT COURT

LaSalle Parish Courthouse
Courthouse St.
Jena, La. 71342
Clerk of Court
P.O. Box 1316
Jena, La. 71342-1316
(318) 992-2158

LINCOLN; 3RD JUDICIAL DISTRICT COURT

Lincoln Parish Courthouse
100 Texas St.
Ruston, La. 71270
Clerk of Court
P.O. Box 924
Ruston, La. 71273-0924
(318) 251-5130

LIVINGSTON; 21ST JUDICIAL DISTRICT COURT

Livingston Parish Courthouse
Corner of Iowa and Magnolia Streets
Livingston, La. 70754
Clerk of Court
P.O. Box 1150
Livingston, La. 70754-1150
(225) 686-2216

MADISON; 6TH JUDICIAL DISTRICT COURT

Madison Parish Courthouse
100 North Cedar St.
Tallulah, La. 71282
Clerk of Court
P.O. Box 1710
Tallulah, La. 71282
(318) 574-0655

MOREHOUSE; 4TH JUDICIAL DISTRICT COURT

Morehouse Parish Courthouse
100 East Madison
Bastrop, La. 71220
Clerk of Court
P.O. Box 1543
Bastrop, La. 71221-1543
(318) 281-3343

NATCHITOCHES; 10TH JUDICIAL DISTRICT COURT

Natchitoches Parish Courthouse
New Courthouse Building – Church Street
Natchitoches, La. 71457
Clerk of Court
P.O. Box 476
Natchitoches, La. 71458-0476
(318) 352-8152

ORLEANS; ORLEANS CIVIL DISTRICT COURT

Orleans Parish Courthouse
Civil Courts Building
421 Loyola Ave., Room 402
New Orleans, La. 70112-1198
Civil District Court Clerk
Civil Courts Building
421 Loyola Ave., Room 402
New Orleans, La. 70112-1104
(504) 407-0000

ORLEANS; ORLEANS CRIMINAL DISTRICT COURT

Orleans Parish Courthouse
Criminal Courts Building
2700 Tulane Ave.
New Orleans, La. 70119
Judicial Administrator's Office: (504) 658-9100; Fax: (504) 658-9113
Clerk of Court: (504) 658-9000; Fax: (504) 658-9183

OUACHITA; 4TH JUDICIAL DISTRICT COURT

Ouachita Parish Courthouse
300 St. John St.
Monroe, La. 71201
Clerk of Court
P.O. Box 1862
Monroe, La. 71210-1862
(318) 327-1444

PLAQUEMINES; 25TH JUDICIAL DISTRICT COURT

Plaquemines Parish Courthouse
301 Main St.
Belle Chasse, La. 70037
Clerk of Court
P.O. Box 40
Belle Chasse, La. 70037
(504) 297-5180

POINTE COUPEE; 18TH JUDICIAL DISTRICT COURT

Pointe Coupee Parish Courthouse
Main Street
New Roads, La. 70760
Clerk of Court
P.O. Box 86
New Roads, La. 70760-0086
(225) 638-9596

RAPIDES; 9TH JUDICIAL DISTRICT COURT

Rapides Parish Courthouse
700 Murray St.
Alexandria, La. 71301
Clerk of Court
P.O. Box 952
Alexandria, La. 71309-0952
(318) 473-8153

RED RIVER; 39TH JUDICIAL DISTRICT COURT

Red River Parish Courthouse

615 Carroll St.

Coushatta, La. 71019

Clerk of Court

P.O. Box 485

Coushatta, La. 71019

(318) 932-6741

RICHLAND; 5TH JUDICIAL DISTRICT COURT

Richland Parish Courthouse

Courthouse Square, 100 Julia Street

Rayville, La. 71269

Clerk of Court

P.O. Box 119

Rayville, La. 71269-0119

(318) 728-4171

SABINE; 11TH JUDICIAL DISTRICT COURT

Sabine Parish Courthouse

Corner of Capital & Main Streets

Many, La. 71440

Clerk of Court

P.O. Box 419

Many, La. 71449-0419

(318) 256-6223

ST. BERNARD; 34TH JUDICIAL DISTRICT COURT

St. Bernard Parish Courthouse

1100 West St. Bernard Hwy.

Chalmette, La. 70043

Clerk of Court

P.O. Box 1746

Chalmette, La. 70044

(504) 271-3434

ST. CHARLES; 29TH JUDICIAL DISTRICT COURT

St. Charles Parish Courthouse

Courthouse Building

River Road

Hahnville, La. 70057

Clerk of Court

P.O. Box 424

Hahnville, La. 70057-0424

(985) 783-6632

ST. HELENA; 21ST JUDICIAL DISTRICT COURT

St. Helena Parish Courthouse

Courthouse Square

Greensburg, La. 70441

Clerk of Court

P.O. Box 308

Greensburg, La. 70441-0308

(225) 222-4514

ST. JAMES; 23RD JUDICIAL DISTRICT COURT

St. James Parish Courthouse
5800 LA 44
P.O. Box 63
Convent, La. 70723
(225) 562-2270

ST. JOHN THE BAPTIST; 40TH JUDICIAL DISTRICT COURT

St. John the Baptist Parish Courthouse
Corner of East Third Street & River Road
Edgard, La. 70049
Clerk of Court
P.O. Box 280
Edgard, La. 70049-0280
(985) 497-3331

ST. LANDRY; 27TH JUDICIAL DISTRICT COURT

St. Landry Parish Courthouse
Court & Landry Streets
Opelousas, La. 70571
Clerk of Court
P.O. Box 750
Opelousas, La. 70571-0750
(337) 942-5606

ST. MARTIN; 16TH JUDICIAL DISTRICT COURT

St. Martin Parish Courthouse
Courthouse Square
Main Street
St. Martinville, La. 70582
Clerk of Court
P.O. Box 308
St. Martinville, La. 70582
(337) 394-2210

ST. MARY; 16TH JUDICIAL DISTRICT COURT

St. Mary Parish Courthouse
500 Main Street
Franklin, La. 70538
Clerk of Court
P.O. Drawer 1231
Franklin, La. 70538-1231
(337) 828-4100

ST. TAMMANY; 22ND JUDICIAL DISTRICT COURT

St. Tammany Parish Justice Center
701 N. Columbia St.
Covington, La. 70433
Clerk of Court
P.O. Box 1090
Covington, La. 70434-1090
(985) 809-8700

TANGIPAHOA; 21ST JUDICIAL DISTRICT COURT

Tangipahoa Parish Courthouse
Corner of Bay & Mulberry Streets

Amite, La. 70422
Clerk of Court
P.O. Box 667
Amite, La. 70422-0667
(985) 748-4146

TENSAS; 6TH JUDICIAL DISTRICT COURT

Tensas Parish Courthouse
Courthouse Square
St. Joseph, La. 71366
Clerk of Court
P.O. Box 78
St. Joseph, La. 71366
(318) 766-3921

TERREBONNE; 32ND JUDICIAL DISTRICT COURT

Terrebonne Parish Courthouse
400 Main St.
Houma, La. 70360
Clerk of Court
P.O. Box 1569
Houma, La. 70361
(985) 868-5660

UNION; 3RD JUDICIAL DISTRICT COURT

Union Parish Courthouse
100 East Bayou St.
Farmerville, La. 71241
Clerk of Court
100 East Bayou St., Suite 105
Farmerville, La. 71241-2894
(318) 368-3055

VERMILION; 15TH JUDICIAL DISTRICT COURT

Vermilion Parish Courthouse
100 North State St.
Abbeville, La. 70510
Clerk of Court
100 North State St., Suite 101
Abbeville, La. 70510
(337) 898-1992

VERNON; 39TH JUDICIAL DISTRICT COURT

Vernon Parish Courthouse
201 South Third St.
Leesville, La. 71446
Clerk of Court
P.O. Box 40
Leesville, La. 71496-0040
(337) 238-1384

WASHINGTON; 22ND JUDICIAL DISTRICT COURT

Washington Parish Courthouse
Courthouse Building
Corner of Washington & Main Streets
Franklinton, La. 70438

Clerk of Court

P.O. Box 607
Franklinton, La. 70438
(985) 839-4663

WEBSTER; 26TH JUDICIAL DISTRICT COURT

Webster Parish Courthouse
410 Main St.
Minden, La. 71055
Clerk of Court
P.O. Box 370
Minden, La. 71058-0370
(318) 371-0366

WEST BATON ROUGE; 18TH JUDICIAL DISTRICT COURT

West Baton Rouge Parish Courthouse
850 Eighth St.
Port Allen, La. 70767
Clerk of Court
P.O. Box 107
Port Allen, La. 70767-0107
(225) 383-0378

WEST CARROLL; 5TH JUDICIAL DISTRICT COURT

West Carroll Parish Courthouse
Courthouse Square
Oak Grove, La. 71263
Clerk of Court
P.O. Box 1078
Oak Grove, La. 71263
(318) 428-3281

WEST FELICIANA; 20TH JUDICIAL DISTRICT COURT

West Feliciana Parish Courthouse
Corner of Prosperity & Ferdinand Streets
St. Francisville, La. 70775
Clerk of Court
P.O. Box 1843
St. Francisville, La. 70775-1843
(225) 635-3794

WINN; 8TH JUDICIAL DISTRICT COURT

Winn Parish Courthouse
119 West Main St.
Winnfield, La. 71483
Clerk of Court
Winn Parish Courthouse
119 West Main St., Room 103
Winnfield, La. 71483
(318) 628-3515

3. Form 60.4 – Pro Se Prisoner-Plaintiff’s Portion of the Pre-Trial Order¹³²

Appendix 60.4. (Rule 60.4) Pro Se Prisoner-Plaintiff’s Portion of the Pre-Trial Order

| | | |
|-----------|-----------------------------------|------------------|
| | NUMBER: | DIVISION: |
| VS. _____ | JUDICIAL DISTRICT COURT | |
| | PARISH OF EAST BATON ROUGE | |
| | STATE OF LOUISIANA | |

PRO SE PRISONER SUIT-- PRETRIAL ORDER FOR PLAINTIFF

Plaintiff: _____

(Your name and Address)

Plaintiff’s Claim: State facts in support:

CONTESTED FACTS: (List those facts in dispute.)

CONTESTED ISSUES OF LAW: (List those legal issues in dispute.)

PLAINTIFF’S EXHIBITS: (On the left side, state the name of, or describe each item you intend to introduce as evidence at trial. On the right side, state what you expect it to prove).

| Exhibit (item) | What It Will Prove |
|-----------------------|---------------------------|
| 1. _____ | _____ |
| | _____ |

¹³² La. Dist. Ct. R. 60.4, App. 60.4 (2012), available at <http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX60.4.pdf> (last visited Jan. 11, 2018).

therefor, I state that because of my poverty that I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further declare that the responses which I have made to questions and instructions below are true.

1. Are you presently employed? Yes () No ()

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer.

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you have received.

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession, or form of self employment (hobby craft sales included)? Yes () No ()

b. Rent payments, interest or dividends? Yes () No ()

c. Pensions, annuities, or life insurance payments? Yes () No ()

d. Gifts or inheritances? Yes () No ()

e. Any other sources? Yes () No ()

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past 12 months.

3. Do you own any cash, or do you have money and/or bonds in a checking or savings account? (Include any funds in prison accounts) Yes () No (). If the answer is yes, state the total value of items owned.

Prison Drawing Account: \$

Prison Savings Account: \$

a. Cash: \$

b. Bonds: \$

c. Other(s) (specify): _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishing and clothing)? Yes () No ()

If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct.

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and/or dismissal of my suit. I authorize the Department of Corrections to make payments from my account(s) in accordance with law.

Date: _____

Signature of Petitioner and D.O.C. Number

STATE OF LOUISIANA
PARISH OF _____

_____, being first duly sworn and under oath presents that he has read, signed, and subscribed to the above and states that the information therein is true and correct.

Petitioner’s Signature Pe titioner’s D.O.C. Number

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public or other person authorized to administer oaths

Title and Identification Number

STATE OF LOUISIANA
PARISH OF _____

_____, being first duly sworn and under oath, did depose and say that he/she is not an attorney or petitioner; that he/she knows Petitioner and knows his/her financial condition, and believes that he/she is unable to pay the costs of court in advance, or as they accrue, or to furnish security therefor.

Signature of Affiant

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public or other person authorized to administer oaths

Title and Identification Number

STATEMENT OF ACCOUNT
(Certified Institutional Equivalent)

I hereby certify that _____, inmate number _____, the Petitioner herein, has the following sums of money on account to his/her credit at _____, institution where he/she is confined:

pay an initial partial filing fee and thereafter, without further action by the Petitioner, prison officials shall be required to forward monthly payments from the Petitioner's inmate account until the entire filing fee is paid.

IT IS FURTHER ORDERED , that within 20 days from the date of this order the Petitioner shall pay an initial partial filing fee in the amount of \$_____ to the Clerk of Court for the ___ Judicial District Court, or the suit may be dismissed or stayed. It is the Petitioner's responsibility to pay the initial partial filing fee.

IT IS FURTHER ORDERED that following the initial payment, the Petitioner shall make monthly payments of 20 per cent of the preceding month's income credited to his/her prison account until costs due are paid. The Louisiana Department of Public Safety and Corrections Centralized Inmate Banking Section shall automatically forward monthly payments to the court for the payment of the filing costs due, without further action by the Petitioner.

IT IS FURTHER ORDERED that following payment of the initial partial filing fee, Centralized Inmate Banking Section for the Louisiana Department of Public Safety and Corrections shall forward the monthly payment from the Petitioner's prison account to the Clerk of Court each time the amount in Petitioner's prison account exceeds \$10 until the initial advance deposit of \$_____ and all costs accruing after filing are paid.

IT IS FURTHER ORDERED that a copy of this order shall be mailed to the Petitioner and to Centralized Inmate Banking Section of the Louisiana Department of Public Safety and Corrections.

IT IS FURTHER ORDERED , that the Louisiana Department of Public Safety and Corrections remit the above ordered funds to the ___ Judicial District Court, as herein ordered, at the following address: Collections Department, P.O. Box _____, LA _____ in accordance with law until all costs are paid.

SO ORDERED, this ___ day of _____, 20__, at _____, Louisiana.

JUDGE/COMMISSIONER

JUDICIAL DISTRICT COURT

<http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX60.7A.PDF>

5. Form 60.7B – Motion to Proceed *In Forma Pauperis* (Court of Appeals)¹³⁴**Appendix 60.7B. (Rule 60.7) Motion To Proceed In Forma Pauperis on Appeals/Writs**

NUMBER: _____ SECTION/DIVISION: _____
 _____ JUDICIAL DISTRICT COURT
 VERSUS
 PARISH OF _____
 STATE OF LOUISIANA

APPELLATE PAUPER MOTION

NOW INTO COURT COMES _____, Appellant in the above-styled cause and pursuant to the provisions of C.C.P. art. 5181 et seq., respectfully moves to proceed in forma pauperis without prepayment of fees, costs, or security given therefor. In accordance with LSA-R.S. 15:1186 et seq., the Appellant shall be required, when funds exist, to pay an initial partial filing fee of \$_____ or 20% of the average monthly deposits up to a maximum of \$_____, and thereafter prison officials shall be required to forward monthly payments of 20% of the preceding month's income credited to the Appellant's inmate account until the entire filing fee and record preparation fees are paid. Appellant hereby authorizes the Department of Corrections to withhold and forward to the Clerk of Court the initial and subsequent monthly payments.

Date: _____

Signature of Appellant and D.O.C. Number_____
Name of Facility Where Currently Housed_____
Address of Facility

¹³⁴ La. Dist. Ct. R. 60.7, App. 60.7(B) (2012), available at <http://www.lasc.org/rules/dist.ct/COURTRULESAPPENDIX60.7B.pdf> (last visited Jan. 11, 2018).

AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

I, _____, declare that I am the Appellant in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty that I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further declare that the responses that I have made to questions and instructions below are true.

1. Are you presently employed? Yes () No ()

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer.

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you have received.

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession, or form of self employment (hobby craft sales included)? Yes () No ()

b. Rent payments, interest or dividends? Yes () No ()

c. Pensions, annuities or life insurance payments? Yes () No ()

d. Gifts or inheritances? Yes () No ()

e. Any other sources? Yes () No ()

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past 12 months.

3. Do you own any cash, or do you have money and/or bonds in a checking or savings account? (Include any funds in prison accounts.) Yes () No (). If the answer is yes, state the total value of items owned.

Prison Drawing Account: \$

Prison Savings Account: \$

a. Cash: \$

b. Bonds: \$

c. Other(s) (specify): _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishing and clothing)? Yes () No ()

If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct.

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and/or dismissal of my suit. I authorize the Department of Corrections to make payments from my account(s) in accordance with law.

**STATEMENT OF ACCOUNT
(Certified Institutional Equivalent)**

I hereby certify that _____, D.O.C. number _____, the Appellant herein, has the following sums of money on account to his/her credit at _____, institution where he/she is confined:

Prison Drawing Account: \$

Prison Savings Account: \$

A. Cash: \$

B. Bonds: \$

I further certify that the average monthly deposits for the preceding six months is \$_____. (The average monthly deposits are to be determined by adding the deposits made during a given month and dividing that total by the number of deposits made during that month. This is repeated for each of the six months. The average from each of the six months are to be added together and the total is to be divided by six.)

I further certify that the average monthly balance for the prior six months is \$_____. (The average monthly balance is to be determined by adding each day's balance for a given month and dividing that total by the number of days in that month. This is to be repeated for each of the six months. The balances from each of the six months are to be added together and the total is to be divided by six.)

Date Certified: _____

**Signature of Authorized Officer of Institution and
Title of Institution**

NUMBER: _____ SECTION/DIVISION: _____
 _____ JUDICIAL DISTRICT COURT
 VERSUS
 PARISH OF _____
 STATE OF LOUISIANA

APPELLATE PAUPER ORDER

Considering the Appellant's application to proceed in forma pauperis; that the said application reflects the status of his/her eligibility as of the date of the signing of the form, the law and evidence being in favor thereof:

IT IS ORDERED that Appellant's motion to proceed in forma pauperis is granted pursuant to law, for the purpose of the filing and record preparation fee. All Appellants granted in forma pauperis status shall be assessed and required to pay \$_____, the initial filing fee and record preparation fee in amounts as set by LSA-R.S. 15:1186, et seq. Appellant shall be required to pay an initial partial filing fee and thereafter, prison officials shall be required to forward monthly payments from the Appellant's inmate account until the entire filing fee is paid.

IT IS FURTHER ORDERED that within 20 days from the date of this order or full payment of the trial court costs and preparation fee, whichever is sooner, the Appellant shall pay an initial partial filing fee in the amount of \$_____ to the Clerk of Court for the ___ Judicial District Court, or the appeal may be dismissed by the Court of Appeal. It is the Appellant's responsibility to pay the initial partial filing fee of the Court of Appeal and the court preparation fee through the _____ Parish Clerk of Court's office for the ___ Judicial District.

IT IS FURTHER ORDERED that the Appellant shall make monthly payments of 20% of the preceding month's income credited to his/her prison account. Monthly payments shall be automatically forwarded to the Centralized Inmate Banking Section for the Louisiana Department of Public Safety and Corrections without further action by the Appellant.

IT IS FURTHER ORDERED that following payment of the initial partial filing fee, Centralized Inmate Banking Section for the Louisiana Department of Public Safety and Corrections shall forward the monthly payment from the Appellant's prison account to the Clerk of Court each time the amount in Appellant's prison account exceeds \$10 until the appellant filing fee of \$_____ and all record preparation fees are paid.

IT IS FURTHER ORDERED that a copy of this order shall be mailed to the Appellant and to Centralized Inmate Banking Section of the Louisiana Department of Public Safety and Corrections.

IT IS FURTHER ORDERED, that the Louisiana Department of Public Safety and Corrections remit the above-ordered funds to the ___ Judicial District Court, Collections

Department, _____, LA _____ in accordance with law until all appellate costs are paid.

SO ORDERED, this ___ day of _____, 20__, in _____, Louisiana.

JUDGE/COMMISSIONER

JUDICIAL DISTRICT COURT