

Claims Litigation and the Agency's Role:

Turning the Double Play!!!

ORM, along with the Attorney General's Office, defends state agencies against thousands of lawsuits each year, spending millions of dollars on defense costs and settlements/judgments.

Our agency insureds are our partners. We ask you to (1) timely report incidents, (2) cooperate with assigned counsel, and (3) facilitate the collection of evidence.

Together, we can turn a double play to end the inning!

Overview of Risk Litigation

ORM Enabling statutes

1. 39:1528
2. 39:1531
3. 39:1533

A close-up, low-angle shot of a baseball, showing the texture of the leather and the stitching. The lighting is warm and dramatic, highlighting the curve of the ball.

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ORM

Responsibilities

39:1535

A close-up, low-angle shot of a baseball, showing the texture of the leather and the stitching. The lighting is dramatic, with a strong highlight on the top of the ball, creating a sense of depth and focus.

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The Self Insurance Fund and the Payment of Claims

Covered versus Uncovered Claims

A close-up, low-angle shot of a baseball, showing the texture of the leather and the stitching. The lighting is warm and dramatic, highlighting the curve of the ball.

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The Appointment of your Counsel

A close-up photograph of a baseball bat and a baseball, with the bat's handle on the left and the ball on the right, set against a dark background with warm lighting.

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The “On Deck” Circle

Stipulation to Liability

Jury or No Jury

Bifurcation of Trial

Mediation

Evidence

Types:

Verbal (testimonial)

Non-verbal (physical)

Testimony

This is sworn testimony in court

Sworn deposition testimony

- Either voluntary or compelled
 - Compelled by subpoena

Physical Evidence

- photos
- videos
- reports*
- records
- audio recordings
- written statements
- other tangible evidence

Physical evidence is compelled
through use of a:

- subpoena duces tecum
- request for production of documents or things

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Admissible Evidence

- relevant
- reliable*

Prejudicial effect vs. Probative value

Preparing for Trial

- assist with the collection of evidence
- make yourself available to defense counsel
- cooperate fully with defense counsel

Attending Trial

- we need the defendant present
- we need a supervisor or other representative of the agency present
- be engaged and interested

Specific Statutes

R.S. 9:2800 liability for damages caused by the condition of buildings or things within its custody

No liability unless

- the public entity had actual or constructive notice of the specific defect prior to the incident
- the public entity has had a “reasonable opportunity” to remedy the defect
 - but has failed to do so

A close-up, low-angle shot of a baseball, showing the texture of the leather and the stitching. The lighting is warm and dramatic, highlighting the curve of the ball.

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Civil code Article 2315

Every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.

A close-up, low-angle shot of a baseball, showing the texture of the leather and the stitching. The lighting is dramatic, with a strong light source from the left, creating a bright glow on the left side of the ball and deep shadows on the right. The background is dark and out of focus.

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R.S. 13:5106

B.(1) The total liability of the state and political subdivisions for all damages for personal injury to any one person, including all claims and derivative claims, exclusive of property damages, medical care and related benefits and loss of earnings, and loss of future earnings, as provided in this Section, shall not exceed five hundred thousand dollars, regardless of the number of suits filed or claims made for the personal injury to that person.

(2) The total liability of the state and political subdivisions for all damages for wrongful death of any one person, including all claims and derivative claims, exclusive of property damages, medical care and related benefits and loss of earnings or loss of support, and loss of future support, as provided in this Section, shall not exceed five hundred thousand dollars, regardless of the number of suits filed or claims made for the wrongful death of that person.

A close-up, low-angle shot of a baseball, showing the stitching and the texture of the leather. The lighting is warm and dramatic, highlighting the curves of the ball.

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Future Medical Care Fund

R.S. 39:1533.2

R.S. 13:5106 (B) (3) (c)

Turning the Double Play

1. Get your glove down!

Be vigilant and document any incident
Preserve relevant evidence

2. Make the throw to second!

Get evidence and other information to
defense counsel and our adjuster/examiner

3. Make the throw to first!

Cooperate with defense counsel
Participate at trial

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Questions