

## How It Works

*“Every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.”  
La. Civ. Code art. 2315*

*Ask yourself: Has another person and/or company caused your injuries?*

Louisiana law allows a person who causes damage to another to be obligated to repair that which has been damaged. Louisiana Civil Code Article 2315 is the mechanism that is used to allow recovery for those who have suffered injuries due to the fault of another. In Louisiana there are three essential elements to every personal injury claim:

1. Liability - Is another person and/or company at fault for the accident, incident and/or defect?
2. Causation - Did the accident, incident and/or defect CAUSE the injury and/or damage you suffered?
3. Damages - Have you suffered an injury or damage?

Therefore, to recovery under Louisiana law another person and/or company must be the reason or part of the reason (liability) for an incident, accident, or defect that results (causation) in an injury (damages) to another. There may be a person responsible for an incident, but if there are no damages, there is no recovery. If you have suffered injuries but are unable to prove who is responsible for the incident, there is no recovery. Lastly, you must prove that the liable acts

caused each element of damage to you. Immediately after being hired to represent a client, our firm aggressively investigates and preserves evidence to prove every element of their case. The Smith Shanklin Sosa Law Firm has sought the help of various experts in different fields of expertise to provide knowledge of complex issues. The most important obligation of an attorney is proving your case and our firm is dedicated to providing quality representation for our clients.

## Liability

Was the incident, accident, or defect the fault of another person or company? When someone's negligence or intentional acts cause an event, accident, or defect that person or company is responsible for the consequences of that negligent or intentional actions.

Liability is an essential element that must be proved in order for a person to have a claim. Determining who is at fault for an accident, incident or defect can be a difficult task. The Smith Shanklin Sosa Law Firm understands the complexities that may arise in all cases from car accidents to complex product defect litigation. We understand that in some cases there may be a need to hire experts in different fields to help prove that a person or company is responsible for the accident, incident, or defect at the center of your case. Our firm has sought the help of various experts in different fields of expertise, including but not limited to, ergonomics, accident reconstruction, data recording devices, fire

cause and origin, metallurgist, etc. John, Loren, and Alicia have helped thousands of clients find justice for the wrongs of others.

## VICARIOUS LIABILITY

*“Masters...are answerable for the damage occasioned by their servants...in their exercise of the functions in which they are employed.”*  
*La. Civ. Code art. 2320.*

Therefore, an employer may be vicariously liable for the actions of their employees. In other words, if an employee of a company causes an injury to another person, the company may be found liable for the employees' actions. It is important to investigate early whether the person at fault was employed and performing actions related to that employment at the time of the incident, accident, and/or occurrence at issue. The Smith Shanklin Sosa Law Firm understands the elements needed to prove that an employer is liable for the actions of their employees.

## Causation

Has the conduct of the other person and/or company caused the victim's damages? The liable person's actions must cause the damage and/or injury a person suffered in order for the person to recover. The causal link between the person and/or company's conduct and our client's injuries and damages may be difficult to prove. Our firm is dedicated to

preserving evidence in every case that will help prove that our client's injuries are a result of the liable person's actions.

The Smith Shanklin Sosa Law Firm understands the complexity that exists when proving that damages were caused by the actions at issue. Difficulties arise when a client is faced with multiple people responsible for multiple acts that have caused multiple damages. It is important to hire a firm that has the experience to navigate through complex issues. The Smith Shanklin Sosa Law Firm understands the complexity of this element and from the beginning of every case we prepare the case for litigation. Our firm has enlisted the help of many experts in a wide range of expertise to aid in proving the causal link between the defendant's actions and our client's injuries. We are constantly investigating and gathering information that will be essential to proving that each action by the liable party has caused each damage suffered by our client.

## Damages

Are there injuries or damages? Some damages are immediately apparent and others may take time to reveal themselves. The injury and/or damage warrants recovery. If there is liability but no damages or injuries, there is no recovery. A person may be responsible (liable) for a negligent act or intentional act, but if there is no damage or injury, there is no recovery. Our firm is committed to proving all damages that our clients suffer.

The Smith Shanklin Sosa Law Firm has involved experts of all kinds to make sure our clients have preserved and are able to prove their injuries and damages. Experts in different fields of expertise have been retained to help our clients receive the recovery they deserve. When our clients have suffered injuries, we understand that medical documentation of those injuries early can help prove their damages later. It is normal for a person to feel pain and be optimistic that the pain will resolve on its own, however, in many cases, it does not resolve and it is important to seek medical care if you have been injured. Your health is the most important part of any case we handle and we take it very seriously.

Damages for the injured victim may include:

1. Medical Expenses
2. Lost Income
3. Funeral Expenses
4. Property Damage
5. Attorneys' Fees
6. Statutory Penalties
7. Mental and Physical Pain and Suffering
8. Mental Anguish
9. Humiliation
10. Emotional Distress
11. Inconvenience
12. Loss of Intellectual Gratification or Physical Enjoyment
13. Loss of Enjoyment of Life
14. Punitive Damages

## 15. Loss of Consortium, Service, and Society

### PUNITIVE (EXEMPLARY) DAMAGES

Under Louisiana law, punitive damages are not available except where authorized by statute. Punitive damages may be awarded when a driver is drunk and causes damage to another person. Punitive Damages are additional damages that are intended to reform or deter a person from engaging in certain behavior.

### LOSS OF CONSORTIUM

When a person suffers injuries, those closest to them suffer. If your husband, wife, child, sibling and/or parent is injured or dies by the fault of another, you may have a claim for loss of consortium. Loss of consortium refers to the loss of love, companionship, comfort and services which a family member may have provided if they had not been injured.

1. A loss of consortium claim may include:
2. Loss of love and affection
3. Loss of companionship
4. Impairment of sexual relations
5. Loss of material services
6. Decreased ability to perform household services
7. Loss of support
8. Loss of comfort

9. Loss of aid and assistance

10. Loss of felicity