

JOINT AND
SEVERAL
LIABILITY

a State-by-State Review

Compendium of Law



FALL 2018

A State-by-State Guide to When Joint and Several Liability Arises

This quick glance compendium serves as a reference tool for joint and several laws across the United States. The allocation of fault in cases is not simply who did what. State law variations affect whether a plaintiff may recover, how much a plaintiff may recover, and how much a defendant may owe. This 50-state summary is a snapshot of the laws that affect how fault is allocated and joint and several liability. Many states have complex systems in place with laws and precedents that go beyond the referenced statutes. Contact your local USLAW member firm for more information and a deeper dive into each state's respective rules.

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Table Key	
	Joint and several liability will arise
	Joint and several liability may arise
	Joint and several liability will arise in certain actions
	Joint and several liability will not arise

State	Liability Type	When Does Joint & Several Liability Arise?	Citation
Alabama	Pure Joint and Several	Defendants are jointly and severally liable. Exception: Recovery is barred when a plaintiff contributes to his or her own injuries.	<i>Matkin v. Smith</i> , 643 So. 2d 949, 951 (Ala. 1994).
Alaska	Pure Several	Never.	ALASKA STAT. § 09.17.080(d).
Arizona	Variable	Only in three circumstances: (1) when defendants act in concert, (2) agency relationships, and (3) violations of duties created by the Federal Employer's Liability Act.	ARIZ. STAT. § 12-2506 (2001)
Arkansas	Pure Several	Never.	ARK. CODE § 16-55-201 (2003).
California	Variable	Only when economic damages are sought.	CAL. CIV. CODE § 1431.2(a) (2015).
Colorado	Variable	Generally, defendants in civil actions are not liable for an amount larger than that percentage of the judgment equal to the percentage of fault attributable to them. If, however, the defendants conspired to pursue a common plan or design to commit the tortious act, they will be held jointly liable. Defendants held jointly liable have a right of contribution from other defendants "acting in concert" — liability among contributors is limited to the percentage of fault attributed to them.	COLO. REV. STAT. § 13-21-111.5 (2018).
Connecticut	Variable	Only for actions that do not sound in negligence.	CONN. GEN. STAT. § 52-572h(c) (2018).
Delaware	Pure Joint and Several	Defendants are jointly and severally liable. Exception: Recovery is barred when a plaintiff is more than 50 percent at fault and if defendant's conduct was plain negligence.	10 DEL. CODE § 6301 (1953); <i>Blackshear v. Clark</i> , 391 A.2d 747 (Del. 1978).
Florida	Variable	Only in the following actions: (1) environmental torts, (2) intentional torts, and (3) transactions in securities.	FLA. STAT. § 768.81(2) (2015).
Georgia	Pure Several	Never.	GA. CODE § 51-12-33 (2005).
Hawaii	Variable	Only in the following actions: (1) noneconomic damages in personal injury cases, (2) all damages in intentional tort cases, (3) strict liability cases, (4) environmental damage cases, and (5) lawsuits dealing with maintenance of highways.	HAW. STAT. § 663-10.9 (1999); <i>Taylor-Rice v. State</i> , 94 P.3d 659 (Haw. 2004).

State	Liability Type	When Does Joint & Several Liability Arise?	Citation
Idaho	Variable	Only in the following actions: (1) where defendants act in concert and (2) where liability is vicarious.	IDAHO CODE § 6-803 (1971); <i>Jones v. HealthSouth Treasure Valley Hosp.</i> , 206 P.3d 473 (Idaho 2009).
Illinois	Variable	Only when a defendant is 25 percent or more at fault. Exception: environmental polluters and negligent parties in medical malpractice actions are always joint and severally liable.	735 ILL. COMP. STAT. 5/2-1117 (2014).
Indiana	Variable	Joint liability was eliminated by Indiana comparative fault except for governmental entities and health care providers.	IND. CODE § 34-51-2-8 (2016).
Iowa	Variable	Only when a defendant is 50 percent or more at fault and only for economic damages.	IOWA CODE § 668.4 (2012).
Kansas	Pure Several	Never.	KAN. STAT. § 60-258a (1974).
Kentucky	Pure Several	Never.	KY. REV. STAT. ANN. § 411.182.
Louisiana	Variable	Only in the following action: when defendants conspire to commit an intentional tort.	LA. Civ. Code Art. 2324.
Maine	Pure Joint and Several	Defendants are jointly and severally liable. Exception: Recovery is barred when plaintiff's degree of fault is greater than defendant's.	<i>Paine v. Spottiswoode</i> , 612 A.2d 235 (Me. 1992).
Maryland	Pure Joint and Several	Defendants are jointly and severally liable. Exception: Recovery is barred when a plaintiff contributes to his or her own injuries.	MD. CODE § 3-1401 (1973).
Massachusetts	Pure Joint and Several	Defendants are jointly and severally liable, but a plaintiff may sue any one defendant for the full amount. This defendant may then seek contribution from the other defendants in a derivative procedure. Exception: Recovery is barred when the defendants' combined degree of fault is less than that of the plaintiff.	ANN. L. MASS. CH. 231B, § 1 (1962).
Michigan	Variable	Only in medical malpractice actions.	MICH. COMP. L. § 600.6304 (1995).
Minnesota	Variable	Only in the following actions: (1) where defendants act in concert, (2) when defendants are more than 50 percent at fault, and (3) intentional and environmental tort actions.	MINN. STAT. § 604.02 (2003).

State	Liability Type	When Does Joint & Several Liability Arise?	Citation
Mississippi	Variable	Only in the following action: when a defendant consciously and deliberately commits a tortious act.	MISS. CODE. ANN. § 85-5-7(2).
Missouri	Variable	Only when a defendant is 51 percent or more at fault in a tort action, which only applies to the defendants who remain when the case is submitted for verdict.	MO. REV. STAT. § 537.067 (2016).
Montana	Variable	Only when a defendant is 51 percent or more at fault or if the defendants acted in concert with each other.	MONT. CODE § 27-1-703 (1979).
Nebraska	Variable	Only for economic damages or if the defendants acted in concert with each other.	NEB. STAT. § 25-21,185.10 (1992).
Nevada	Variable	Defendants are jointly and severally liable in cases involving (a) Strict liability, (b) an intentional tort, (c) the emission, disposal or spillage of a toxic or hazardous substance, (d) the concerted acts of the defendants, (e) an injury to any person or property resulting from a product which is manufactured, distributed, sold or used in this State or (f) where defendant does not allege comparative negligence as a defense.	NRS 41.141; <i>Buck v. Greyhound</i> , 105 Nev. 756, 783 P.2d 437 (1989).
New Hampshire	Variable	Only when a defendant is 50 percent or more at fault or if the defendants acted in concert.	N.H. STAT. § 507:7-e (1997).
New Jersey	Variable	Only when a defendant is 60 percent or more at fault.	N.J. STAT. § 2A:15-5.3 (1995).
New Mexico	Variable	Only in the following actions: (1) where defendants act in concert, (2) intentional torts, (3) vicariously liable defendants, (4) product liability cases, and (5) cases involving inherently dangerous activities.	N.M. STAT. § 41-3A-1 (1987).
New York	Variable	When a defendant is 50 percent or more at fault. Exceptions exist.	<i>Cooney v. Osgood Machinery</i> , 612 N.E.2d 277 (N.Y. 1993); CPLR Article 16
North Carolina	Pure Joint and Several	Defendants are jointly and severally liable. Exception: when a plaintiff's failure to use ordinary care was a proximate cause of his or her injury, he or she may not recover unless the case involves willful or wanton conduct by defendants.	N.C. STAT. § 1B-2 (1967).

State	Liability Type	When Does Joint & Several Liability Arise?	Citation
North Dakota	Variable	Only in the following action: when defendants are found to have acted in concert or conspired to commit an intentional tort.	N.D. CODE § 32-03.2-02 (1987).
Ohio	Variable	Only when a defendant is 50 percent or more at fault.	OHIO REV. CODE ANN. § 2307.22 (2013).
Oklahoma	Pure Several	Never.	OKLA. STAT. tit. 23, § 15 (West 2015).
Oregon	Variable	Only in the following action: when a defendant commits an environmental tort.	OR. REV. STAT. § 31.610(1) (2013).
Pennsylvania	Variable	Only when a defendant is 60 percent or more at fault or in any of the following actions: (1) intentional torts, (2) violations of Hazardous Sites Cleanup Act, and (3) violations of the Liquor Code, i.e. Dram Shop laws.	42 PA. CONS. STAT. ANN. § 7102. (West 2011)
Rhode Island	Pure Joint and Several	Defendants are always jointly and severally liable.	R. I. GEN. LAWS § 10-6-2 (1956)
South Carolina	Variable	Only when a defendant is 50 percent or more at fault or if a defendant's conduct is willful or involved illegal drugs or alcohol.	S.C. CODE § 15-38-15 (2005).
South Dakota	Variable	Only when a defendant is 50 percent or more at fault. Defendants who are less than 50 percent at fault are still jointly and severally liable, but there is a cap on their liability for no more than twice their proportionate share of fault.	S.D. CODIFIED LAWS § 15-8-11 (2005).
Tennessee	Variable	Only in the following actions: (1) in a civil conspiracy when two or more at fault defendants act in concert and (2) a products claim against a manufacturer on a theory of strict liability or breach of warranty.	Tenn. Code Ann. § 29-11-107(b) (2013).
Texas	Variable	Only when a defendant is 51 percent or more at fault.	TEX. CIV. PRAC. & REM. CODE § 33.013(a).
Utah	Pure several, except in products cases.	No joint and several, except potentially in products cases between the manufacturer, distributors and sellers of allegedly defective products.	Ut. Code § 78B-5-818 (1986). But see, <i>Bylsma v. R.C. Willey</i> , 2017 UT 85, 416 P.3d 595, 2017 WL 5998937.
Vermont	Variable	Only when the plaintiff has no fault attributed to him/her.	VT. STAT. § 1036 (1980).
Virginia	Pure Joint and Several	Defendants are always jointly and severally liable.	VA. CODE § 8.01-443 (1977).

State	Liability Type	When Does Joint & Several Liability Arise?	Citation
Washington	Variable	Only in the following actions: (1) where the plaintiff is not at fault, (2) where defendants act in concert, (3) a person acted as an agent or servant of a party, or (4) in certain other instances involving hazardous materials or substances, "tortious interference with contracts or business relations," and "the manufacture or marketing of a fungible product in a generic form."	WASH. REV. CODE § 4.22.070(1), (3).
West Virginia	Variable	Only in the following actions: (1) defendants consciously conspire to commit a tortious act; (2) alcohol or drug influenced driving; (3) criminal conduct; (4) an illegal disposal of hazardous waste; and (5) in cases against political subdivisions or its employee as to each defendant who bears twenty-five percent or more negligence, and (6) defendants who have the same liability on an instrument as makers, drawers, acceptors, indorsers, etc.	W. VA. CODE § 55-7-13c(h); W. VA. Code § 29-12A-7; and W. VA. Code § 46-3-116
Wisconsin	Variable	Only when a defendant is 51 percent or more at fault or found to have acted in concert with other defendants.	WIS. STAT. § 895.045(1) (2016).
Wyoming	Pure Several	Never.	WYO. STAT. § 1-1-109 (1986).

This Compendium outline contains a brief overview of certain laws concerning various litigation and legal topics. The compendium provides a simple synopsis of current law and is not intended to explore lengthy analysis of legal issues. This compendium is provided for general information and educational purposes only. It does not solicit, establish, or continue an attorney-client relationship with any attorney or law firm identified as an author, editor or contributor. The contents should not be construed as legal advice or opinion. While every effort has been made to be accurate, the contents should not be relied upon in any specific factual situation. These materials are not intended to provide legal advice or to cover all laws or regulations that may be applicable to a specific factual situation. If you have matters or questions to be resolved for which legal advice may be indicated, you are encouraged to contact a lawyer authorized to practice law in the state for which you are investigating and/or seeking legal advice.

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