



A. Statute of Limitations

- **Personal Injury:** Two years from date of injury. If injury was not discovered right away, then the statute of limitations runs from the date the injury was discovered. – CCP 335.1; as to the discovery rule, *see, e.g., (Jolly v. Eli Lilly & Co. (1988) 44 Cal.3d 1103 [245 Cal.Rptr. 658, 751 P.2d 923])*.
- **Property Damage:** Three years from the date the property was damaged. – CCP 338(c)(1).
- **PIP Subrogation:** Coverage not applicable.
- **Wrongful Death:** Two years from date of injury. – CCP 335.1.
- **Action Against Municipality:** In the State of California, a person has six months to file an administrative claim. The city has 45 days to respond. If the government agency denies the claim, the claimant has six months to file a lawsuit from the date the denial was mailed or personally delivered. If the claimant does not get a rejection letter, claimant has two years to file from the day the incident occurred. – CA Gov Code 911.2, 912.4, 912.6, 945.6(a)(2).

B. No Fault

California is not a no fault state.

C. Comparative Negligence

California is one of 13 states that have adopted a “pure” comparative fault law (CACI 406; *Pfeifer v. John Crane, Inc. (2013) 220 Cal.App.4th 1270*).

The pure comparative fault doctrine allows a plaintiff to recover damages from a defendant minus his or her percentage of comparative negligence. Even if the plaintiff is 99% responsible for the accident, he or she can recover 1% of the damages in California.

D. Joint & Several Liability

For economic damages, joint liability applies. An obligation imposed upon several persons, or a right created in favor of several persons, is presumed to be joint, and not several. (Civil Code 1431.).

The liability of each defendant for non-economic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of non-economic damages allocated to that defendant in direct proportion to that defendant’s percentage of fault, and a separate judgment shall be rendered against that defendant for that amount. (Civil Code 1430 *et seq.*; CC 1431.2(a)).

E. Graves Amendment

Under the Graves Amendment, the owner of a leased vehicle cannot be held vicariously liable for the negligent operation of that vehicle, despite the general rule of California Vehicle Code §17150 et seq, that a vehicle's title owner is presumptively liable. Absent evidence of direct negligence (negligent hiring/supervision/entrustment), a plaintiff's claims are barred.

49 USC § 30106(a) states:

- (a) In general. - An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if –
 - (1) The owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
 - (2) There is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).