



A. Statute of Limitations

- **Personal Injury:** Two years from the date of the accident. I.C. § 34-11-2-4(a)(1).
- **Property Damage:** Two years from the date of the accident. I.C. § 34-11-2-4(a)(2).
- **Med Pay Subrogation:** Two years from the date of the insured's accident. I.C. § 34-11-2-4(a)(1).
- **Wrongful Death:** Two years from the date of death; regardless of whether the deceased person was an adult or a child. I.C. § 34-23-1-1; I.C. § 34-23-2-1.
- **Action Against Political Subdivision:** In Indiana, a political subdivision can be sued for the negligent operation of its vehicles. *State v. Turner*, 153 Ind. App. 197 (1972). An injured party must file a notice of claim within 180 days after the injury occurs and has two years from the date of the accident to file suit against the political subdivision. I.C. § 34-13-3-8(a); I.C. § 34-11-2-4 (a)(1).

B. Comparative Negligence

Indiana has adopted a “modified” comparative fault system, or 51% Fault Rule, which prohibits personal injury claimants from recovering any compensation if they bear more than 50% of the responsibility for their injury. I.C. § 34-51-2-6. An injured party who bears 50% or less of the responsibility for their injury will be able to recover compensation in proportion to their percentage of fault. *Id.*

C. Several Liability

Indiana is a pure several liability state. Thus, the at-fault parties are only responsible for payment of damages in the amount proportionate to the percentage of fault that a jury has assessed to them. I.C. § 34-51-2-8. There is no right of contribution among the at-fault parties. I.C. § 34-51-2-12.

D. Punitive Damages

Punitive damages are governed by statute in Indiana. I.C. §§ 34-51-3-0.2 – 34-51-3-6. A claim for punitive damages has its own prerequisite elements of proof; however, a claim for punitive damages is not treated as a separate cause of action. *Yost v. Wabash Coll.*, 3 N.E.3d 509, 514 (Ind. 2014). To prevail, the plaintiff must show, by clear and convincing evidence, that a defendant acted with malice, fraud, gross negligence, or oppressiveness that is not the result of mistake of law or fact, honest judgment error, overzealousness, mere negligence or other such human failing. *Sims v. Pappas*, 73 N.E.3d 700, 706 (Ind. 2017).

An award of punitive damages may not be more than the greater of three times the time amount of compensatory damages awarded in the action or fifty thousand dollars, whichever is greater. I.C. § 34-51-3-4.

Punitive damages are not recoverable under Indiana's wrongful death statutes. See I.C. §§ 34-23-1-0.1 – 34-23-2-1; see also *Durham v. U-Haul Int'l*, 745 N.E.2d 755, 761 (Ind. 2001).

E. Negligent Hiring, Retention, and Supervision

Indiana law recognizes a separate and distinct cause of action against an employer based on theory of negligent hiring and retention of an employee. *Davis v. Macey*, 901 F. Supp. 2d 1107, 1111 (N.D. Ind. 2012). However, absent special circumstances, a plaintiff is precluded from bringing a separate cause of action for negligent hiring and retention when an employer admits that an employee was acting within the course and scope of his or her employment with the employer. *Sedam v. 2JR Pizza Enters., LLC*, 84 N.E.3d 1174 (Ind. 2017); *see also Branscomb v. Wal-Mart Stores E., L.P.*, 165 N.E.3d 982, 985 (Ind. 2021) (holding that “while Indiana recognizes the tort of negligent hiring, training and supervision, it does not apply when the tortfeasor employee is acting in the course and scope of employment.”).

F. Indiana and the Federal Motor Carrier Safety Regulations

Indiana has explicitly adopted 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 of the Federal Motor Carrier Safety Regulations (“FMCSRs”), with some exclusions. I.C. 8-2.1-24-18. The adopted FMCSRs must be complied with by all interstate and intrastate motor carrier of persons or property throughout Indiana.

Of note, the provisions of 49 CFR 395 which regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck, as defined by statute, or a vehicle operated in intrastate construction or construction related service. *See* I.C. 8-2.1-24-18(a).