



A. Statute of Limitations

- **Personal Injury:** Generally, three years from the date of accident; latent disease cases three year period runs from date of discovery-Miss. Code Ann. § 15-1-49.
- **Property Damage:** Three years for tort cases- Miss. Code Ann. § 15-1-49.
- **Wrongful Death:** Three years from date of death - Miss. Code Ann. § 15-1-49.
- **No-Fault:** Mississippi is not a no-fault state.
- **Action Against Municipality:** One year and ninety-five days - Miss. Code Ann. § 11-46-11. An action for personal injury or property damage against a governmental entity may be filed after all procedures within the governmental entity have been exhausted. Tortious conduct by a governmental entity or its agent is subject to a one-year statute of limitations. Notice must be filed with the chief executive officer of the governmental entity at least 90 days before instituting suit. After filing the required notice, the statute of limitations period may be tolled for 95 days.

B. Comparative Negligence

Mississippi is a pure comparative fault state. Miss. Code Ann. § 11-7-15. Pursuant to this statute, contributory negligence will not be a complete bar to recovery; instead, a Plaintiff's recoverable damages may be reduced in proportion to their assigned fault. For example, if a Plaintiff is found to be 60% at-fault, any award of damages will be reduced by 60%.

C. Joint & Several Liability

Generally, the liability for two or more persons shall be several only. Miss. Code Ann. § 85-5-7. However, joint and several liability may be imposed when two or more persons are found to have conspired to commit a tortious act. Each joint tortfeasor will be responsible only for damages directly proportional to their percentage of fault.

D. Limitations on Damages

Except for medical malpractice actions, a Plaintiff may not recover noneconomic damages, such as pain and suffering, in excess of \$1,000,000. Miss. Code Ann. § 11-1-60(2)(b). Mississippi does not recognize an award of damages for loss of enjoyment of life separate from an award of pain and suffering; instead, there can only be one award of general damages. Miss. Code Ann. § 11-1-69(1). Mississippi also prohibits an award for loss of enjoyment of life in a wrongful death action. Miss. Code Ann. § 11-1-69(2).

In the event the plaintiff's claim is against a governmental entity or its employee, liability shall not exceed \$500,000 for all claims arising out of a single occurrence. Miss. Code Ann. § 11-46-15.

E. Punitive Damages

Mississippi allows for punitive damages only in exceptional circumstances where plaintiff proves by clear and convincing evidence that a defendant “acted with actual malice, gross negligence which evidences a willful, wanton or reckless disregard for the safety of others, or committed actual fraud.” Miss. Code. Ann. § 11-1-65. In the event an award for punitive damages is warranted, damages will be limited to:

1. \$20,000,000 for a defendant with a net worth of more than \$1,000,000,000
2. \$15,000,000 for a defendant with a net worth of \$750,000,000 - \$1,000,000,000
3. \$5,000,000 for a defendant with a net worth of \$500,000,000 - \$750,000,000
4. \$3,750,000 for a defendant with a net worth of \$100,000,000 - \$500,000,000
5. \$2,500,000 for a defendant with a net worth of \$50,000,000 - \$100,000,000
6. 2% of a defendant’s net worth if their net worth is less than \$50,000,000
7. There is no limitation on damages if a defendant was charged with a felony in connection with the incident or was under the influence of drugs or alcohol at the time of the incident.

Punitive damages will not be awarded in claims against a governmental entity or its employees. Miss. Code Ann. § 11-46-15.

F. Negligent Hiring, Employment and Entrustment

Federal District Courts in Mississippi have uniformly held that a Plaintiff may not pursue a claim for negligent hiring, employment, and entrustment against an employer where the employer acknowledges that it is vicariously liable for the negligence of its employee. See e.g., *Parker v. Pitts*, 2017 U.S. Dist. LEXIS 219096 (S.D. Miss. 11/12/17); *Dinger v. American Zurich Ins. Co.*, 2014 U.S. Dist. LEXIS 18378 (S.D. Miss. 2/13/14); *Booker v. Hadley*, 2009 U.S. Dist. LEXIS 63498 (S.D. Miss. 7/02/09).

The Mississippi Court of Appeals has also held that a Plaintiff cannot assert a claim against an employer for negligent hiring, employment, and entrustment when the employer has admitted their vicarious liability for the negligence of its own employee. *Carothers v. City of Water Valley*, 242 So.3d 138, 144 (Miss. Ct. App. 2017). Although the Mississippi Supreme Court has not addressed this issue directly, it has held that evidence of an employer’s independent negligence is inadmissible if the employer admitted it would be vicariously liable for an employee’s negligence. *Nehi Bottling Co. v. Jefferson*, 84 So.2d 684, 686 (Miss. 1956).

G. Graves Amendment

Under the Graves Amendment, the owner of a leased vehicle cannot be held vicariously liable for the negligent operation of that vehicle. Pursuant to Federal statute 49 U.S.C. Section 30106, the Graves Amendment preempts all state statutory and common law to the extent those laws hold owners in the business of renting or leasing motor vehicles, vicariously liable for the negligence of drivers. There are no reported Mississippi state court cases interpreting the preemptive effect of the Graves Amendment as it applies to Mississippi law. Federal courts in Mississippi, however, have repeatedly recognized that the Graves Amendment prevents a plaintiff from pursuing a vicarious liability claim against a commercial lessor

of a vehicle. Instead, a plaintiff must establish that the commercial lessor owed the plaintiff an independent duty of care.

Federal courts have frequently required some evidence of culpable conduct on the part of the commercial lessor to support these claims; generic allegations of negligence that are not shown to be the cause of an accident frequently fail to survive dispositive motions. For example, the commercial lessor is not required to equip the leased vehicle with specialized alarms, controls or safety devices to allow for long-distance driving. *Martinez v. Overnight Parts Alliance, LLC*, 2020 WL 5983889 (S.D. Miss. 10/08/20). Federal courts also recognize that a plaintiff has a claim against a commercial lessor for “negligent entrustment”; however, this claim requires proof that the lessor knew or should have known that the driver of the leased vehicle “is a careless and reckless driver.”