



## A. Statute of Limitations

- **Personal Injury:** within two years. NRS 11.190(4)(e).
- **Wrongful Death:** within two years. NRS 11.190(4)(e).
- **Property damage:** within three years. NRS 11.190(3)(c).
- **Relief for Fraud or Mistake:** NRS 11.190(3)(d).
- **Libel, slander, assault, battery, false imprisonment or seduction:** within two years. NRS 11.190(4)(c).

## B. Negligence

In Nevada, to prevail upon a negligence theory, Plaintiff must establish (1) that Defendant owed a duty of care; (2) that Defendant breached that duty; (3) that the breach was the legal cause of the injury; and (4) that Plaintiff suffered damages. *See, Scialabba v. Brandise Construction Co.*, 112 Nev. 965, 968, 921 P.2d 928, 930 (1996).

## C. Common Carrier Law

Nevada law requires the common carrier of passengers to exercise the highest degree of care that human judgment and foresight and are capable of to make their passenger's journey safe. Whoever engages in the business impliedly promises that their passenger shall have this degree of care. In other words, the carrier is conclusively presumed to have promised to do what, under the circumstances, the law requires them to do so. *Forrester v. Southern Pac. Co.*, 36 Nev. 247, 311, 134 P. 753, 774, 1913 Nev. LEXIS 31, \*112.

## D. Comparative Negligence

Nevada is a modified comparative fault state, meaning if the negligence of the Plaintiff exceeds that of the Defendant, Plaintiff is barred from any recovery. If Plaintiff is found to be less than 51% negligent, Plaintiff's recovery is decreased based on their percentage of negligence.

## E. Negligent Entrustment

Pursuant to Nevada law, negligent entrustment of a motor vehicle occurs when a person knowingly entrusts a vehicle to an inexperienced or incompetent person, such as a minor child unlicensed to drive a motor vehicle, and such person may be found liable for damages resulting thereby. *Zugel by Zugel v. Miller*, 100 Nev 525, 688 P.2d 310 (1984). The question of whether a Defendant was negligent in entrusting a motor vehicle is a question of fact for the jury to resolve. *Id.* The elements of negligent entrustment include whether an entrustment actually occurred, and whether the entrustment was negligent. *See, McCart v. Muir*, 230 Kan. 618, 641 P.2d 384 (1982).

## F. Joint & Several Liability

Under Nevada law, liability is joint and several when two or more tortfeasors cause injury through their combined or concurrent tortious conduct. *Buck v. Greyhound Lines, Inc.*, 105 Nev. 756, 763 (1989). Any one of several tortfeasors whose conduct contributed to a Plaintiff's injuries can be tapped for the entire amount of damages. *Id.* The defense of comparative negligence bars a Plaintiff's recovery if his negligence exceeds that of the Defendant or combined negligence of multiple Defendants. NRS 14.141(2)(a). In personal injury actions, if contributory or comparative negligence is a legitimate defense, NRS 41.141 deviates from the common law requirements of joint and several liability on Defendants against whom judgments are entered. *Id.*; See also NRS 41.141(4) ("each Defendant is severally liable to the Plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to him"). The statute only applies where a Plaintiff's contributory negligence can be asserted as a bona fide issue in the case. *Id.* at 764. If one Defendant settles with the Plaintiff, absent comparative negligence, the judge must deduct the amount of that settlement from the net sum otherwise recoverable by the Plaintiff against the remaining Defendants. *Coughlin v. Hilton Hotels Corp.*, 879 F. Supp. 1047, 1049 (Nev. 1995); See also NRS 14.141(3).

## G. Negligence Per Se and Traffic Statutes

Negligence per se is a common law theory that reduces the elements a claimant must prove by substituting the Duty of Care and Breach of Duty elements with evidence that the alleged tortfeasor violated a statute. A violation of statute establishes the duty and breach elements of negligence only if the injured party belongs to the class of persons that the statute was intended to protect, and the injury is of the type against which the statute was intended to protect. *Sagebrush Ltd. v. Carson City*, 99 Nev. 204, 208, 660 P.2d 1013, 1015 (1983). The Supreme Court of Nevada, however, has held that violations of traffic laws will not act to support claims of Negligence Per Se, codified as NRS 41.144. *Langdon v. Matamoros*, 121 Nev. 142, 144-45, 111 P.3d 1077, 1078 (2005). *Langdon* involved an automobile accident, wherein the Defendant was issued a citation for failure to yield the right-of-way and pled nolo contendere. *Id.*

## H. Offers of Judgment

Offers of Judgment in Nevada are governed by NRCP 68, and are designed to facilitate and encourage settlement by placing the risk of loss on the non-accepting offeree, with no risk to the offeror. *Matthew v. Collman*, 110 Nev. 940, 950 (1994). NRCP 68 allows either party to make an offer, rather than only the Defendant. Once an offer is made, the offeree has ten days to accept it. *Nava v. Second Jud. Dist. Court*, 118 Nev. 396, 398 (2002). The offer is revocable during the ten day period. *Id.* If the offeree rejects an offer and fails to obtain a more favorable judgment, the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment, and the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney's fees, if any be allowed, actually incurred by the offeror from the time of the offer. NRCP 68(f). If the offeror's attorney is collecting a contingent fee, the amount of any attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee. *Id.* Under NRCP 68, any party may serve an offer of judgment in writing, as opposed to its federal counterpart with limits offers to defendants only.

## **I. Limitation on Awards**

Pursuant to NRS 41.035, an award for damages in a tort action brought against a present or former officer or employee of the State or any political subdivision, immune contractor or State legislator arising from an act or omission within the scope of the person's public duties or employment may not exceed \$100,00, and may not include any exemplary or punitive damages. NRS 41.035.

Pursuant to NRS 42.005, punitive damages awards may not exceed three times the amount of compensatory damages awarded to the Plaintiff if the amount of compensatory damages is \$100,00 or more, or \$300,000 if the amount of compensatory damages awarded to the Plaintiff less than \$100,000 or more.

