



### A. Statute of Limitations

- **Personal Property:** 5 Years - Va. Code § 8.01-243(B)
- **Personal Injury:** 2 Years from the date of accident. Va. Code § 8.01-243(A)
- **Wrongful Death:** 2 Years from the date of death. Va. Code § 8.01-244

### B. Contributory Negligence

Virginia does not have comparative negligence. It is a contributory negligence state. If the plaintiff is found to be even 1% at fault, he or she will not recover anything.

### C. Joint & Several Liability

In Virginia, if two or more persons are found liable, any one of them can be held responsible for the entirety of an injured person's loss. Where some but not all defendants settle with the plaintiff, those defendants are no longer subject to a claim for contribution. Va. Code § 8.01-35.1. The non-settling defendants get a reduction in their exposure (the amount of the settlement) for any award to the plaintiff.

### D. Nonsuit Option

Virginia has a unique option for plaintiffs – the Nonsuit Statute. Va. Code § 8.01-380. Pursuant to this statute, a plaintiff can take a nonsuit (a “voluntary dismissal without prejudice”) at any point before the case goes to the jury. The plaintiff does not need the consent of the defendant(s) to nonsuit his or her case, and does not have to state a reason for the nonsuit. If a plaintiff takes a nonsuit, he or she must re-file the case within 6 months of the date of the Nonsuit Order.

### E. PIP Subrogation

Virginia law prohibits inclusion of bodily injury subrogation clauses in auto insurance policies. Va. St. § 38.2-2209. Neither Med Pay nor PIP benefits can be subrogated. Virginia, in fact, does not have provisions for PIP coverage.

### F. Graves Amendment

Under the Graves Amendment, the owner of a leased vehicle cannot be held vicariously liable for the negligent operation of that vehicle. So long as the owner demonstrates, prima facie, that it was engaged in the business of renting or leasing motor vehicles and was not otherwise negligent, the owner/lessor will be dismissed from the litigation pursuant to the Graves Amendment. *See Gluck v. Negben*, 72 A.D.3d 1023

(2d Dep't 2010). Pursuant to Federal statute 49 USC § 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.

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)