



### A. Statute of Limitations

- **Personal Injury** – Three years from the date of the accident.
- **Wrongful Death** – Three years from the date of death.
- **Personal Property** – Three years from the date of the accident.
- **Medical Payment** – Coverage for medical payments provided under a motor vehicle insurance policy allows for payment of medical costs. Subrogation for these costs is allowed and must be brought within three years of the date of the accident. There is no right to recovery if the claimant is not fully compensated.
- **Actions against Governmental Units** – written notice must be presented 60 days prior to filing the lawsuit and the suit must be commenced within three years.

### B. Contributory Negligence

Washington is one of 13 states that have adopted a “pure” comparative fault law. (RCW 4.22.005) The pure comparative 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 Washington.

### C. Joint & Several Liability

In Washington, when plaintiff is fault free, joint and several liability applies and each negligent defendant will be liable for all damages. (RCW 4.22.070). However, when a defendant is required to pay more than his or her equitable share, that defendant may bring a separate action against the other defendant for contribution in order to recover the payment beyond his or her equitable share. (RCW 4.22.050)

### D. Serious Injury Threshold

Washington does not require a plaintiff to meet a threshold for injuries or damages before he or she files a lawsuit.

### E. Non-economic Damages

Washington allows plaintiffs to recovery for both economic and non-economic damages. Economic damages include monetary losses, medical expenses, loss of earnings, burial costs, loss of use of property, replacement or repair cost, substitute domestic services, loss of employment, and loss of business and employment opportunities. Non-economic damages include damages such as pain and suffering, inconveniences, mental anguish, disability and disfigurement, emotional distress, loss of companionship,

loss of consortium, injury to reputation, and humiliation. (RCW 4.56.250). In wrongful death claims, surviving spouses and children are first tier beneficiaries and may be awarded damages for their losses resulting from the decedent's death.

Washington does not cap or limit the amount of compensation that can be awarded, as it has held such caps unconstitutional. However, Washington is one of four states which doesn't allow recovery for punitive damages in personal injury cases.

## **F. PIP Subrogation**

For automobile insurance policies issued in Washington, insurers are required to offer PIP/UIM coverage and the insured must affirmatively decline the coverage or it is provided. Washington is a "no fault" state, and therefore any insurance policy issued in the state may offer PIP coverage, but motorists are not required to have it. Currently, motorists can purchase up to \$35,000 in coverage. Washington law allows a PIP carrier to be reimbursed for PIP payments made to an insured. A PIP carrier may recover its PIP benefits from the insured's UIM benefits.

## **G. Graves Amendment**

Washington recognizes the Graves Amendment and that the owner of a leased or rented vehicle, such as a rental car company, cannot be held vicariously liable for the negligent operation of that vehicle. Washington defines a rental car company as any person in the business of renting cars to the public. This also includes to a franchisee. (RCW 48.115.005). Although Washington recognizes the Graves Amendment, in many instances Washington State Court judges will decline to apply Graves broadly in favor of plaintiffs.

Pursuant to 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).