



### A. Statute of Limitations

- **Personal Injury** – Three years from the date of the accident – RSA 508:4(I)
- **Wrongful Death** – Three years from the date of death – RSA 508:4(I), RSA 556:11 (provides for a separate six year statute of limitations subject to the provisions of RSA 508)
- **Personal Property** – Three years from the date of the accident – RSA 508:4(I)
- **Medical Payment** – Coverage for medical payments provided under a motor vehicle insurance policy only allows for payment of medical costs incurred within three years of the date the injuries are sustained. Subrogation for these costs is prohibited. RSA-264:16; 17
- **Actions against Governmental Units** – written notice must be presented within 60 days of the injury, and the suit must be commenced within three years. RSA 507-B:7
- **Actions against the State** – written notice must be presented within 180 days of the injury, and the suit must be commenced within three years. RSA 541-B:14

### B. Contributory Negligence

New Hampshire allows a plaintiff who is less than 51% at fault to recover damages in personal injury and property damages claims. However, the plaintiff's damages award is diminished in proportion to the amount of fault attributed to him or her. RSA 507:7-d.

### C. Joint & Several Liability

When a defendant is at least 50%, New Hampshire imposes a joint and several liability standard. However, if a defendant is less than 50% at fault, he or she is only severally liable, and is only liable for the damages attributable to him or her. In cases where defendants are found to have knowingly pursued or taken active part in a common plan or design resulting in harm, the defendants are jointly and severally liable. The defendants each have a right of contribution among themselves if they are jointly and severally liable. A defendant may bring a separate action for contribution concerning the proportionate share of the damages. If a defendant's share is found to be uncollectible by the court, that defendant's share is reallocated amount the remaining defendants. RSA 507:7-e; f.

### D. Serious Injury Threshold

As an "at fault" state, New Hampshire does not require a plaintiff to meet any kind of threshold for injuries or damages before he or she files a lawsuit.

## E. Non-economic Damages

As a general rule, New Hampshire does not allow plaintiffs to recovery for punitive damages unless specifically provided by statute (RSA 507:16), and allows for recovery only on a compensatory damages basis. New Hampshire courts have held that the wrongful death statute, RSA 556:12, permits recovery for hedonic damages, which are damages resulting from the loss of enjoyment of life. Hedonic damages are meant to compensate a plaintiff for the alleged lost ability to engage in activities that once brought pleasure. These damages can be brought as either temporary or permanent impairment claims. *See Marcotte v. Timberlane/Hampstead Sch. Dist.*, 143 N.H. 331, 733 A.2d 394 (1999); *Bennett v. Lembo*, 145 N.H. 276, 761 A.2d 494 (N.H. 2000); & *Stachulski v. Apple, Inc.*, 2018 N.H. LEXIS 133 \*19 (N.H. Sup. July 18, 2018).

In wrongful death claims, surviving spouses and minor children may be awarded damages for their losses resulting from the decedent's death. However, a surviving spouse's award is limited to \$150,000, and a minor child is limited to \$50,000. RSA 556:12.

## F. Med Pay

New Hampshire is an "at fault" state, and therefore any insurance policy issued in the state does not offer any PIP coverage. Residents are not required to obtain automobile insurance. For automobile insurance policies issued in New Hampshire, insurers are required to provide at least \$1,000.00 in medical payments coverage. The coverage only applies to reasonable medical costs incurred within three years following the date the injuries are sustained. RSA 264:16. New Hampshire law prohibits the right of subrogation of insurers for benefits provided through medical payments coverage under RSA 264:16. RSA 264:17.

## G. Graves Amendment

Under the Graves Amendment, the owner of a leased or rented vehicle cannot be held vicariously liable for the negligent operation of that vehicle. As 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 Windmill Distrib. Co. LP v. Hartford Fire Ins. Co.*, 449 Fed. Appx. 81 (2d Cir. 2012). To date, New Hampshire has not addressed the question or whether the Graves Amendment preempts any applicable New Hampshire law. However, The New Hampshire Supreme Court has refused to hold that a self-insured owner and lessor of a vehicle was required to provide primary financial responsibility protection for the benefit of the driver renting the vehicle. *See Progressive Northern Ins. Co. v. Enter. Rent-A-Car Co. of Boston, Inc.*, 149 N.H. 489, 821 A. 2d 991 (2003).

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).