

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

STATE	TYPE OF LAW	SOURCE
Alabama	Pure Joint and Several Liability - Case law follows the common law doctrine of joint and several liability.	<u>Matkin v. Smith</u> , 643 So. 2d 949 (Ala. 1994)
Alaska	Pure Several Liability - The court shall enter judgment against each party liable on the basis of several liability in accordance with that party's percentage of fault.	Alaska Stat. § 09.17.080(d) (2009)
Arizona	Pure Several Liability - Each defendant is liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be entered against the defendant for that amount.	Ariz. Rev. Stat. § 12-2506 (2009).
Arkansas	Pure Several Liability - In any action for personal injury, medical injury, property damage, or wrongful death, the liability of each defendant for compensatory or punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault.	Ark. Code Ann. § 16-55-201 (2009)
California	Modified Joint and Several Liability - In any action for personal injury, property damage, or wrongful death, based upon principles of comparative fault, the liability of each defendant for non-economic damages shall be several only and shall not be joint. The term "non-economic damages" means subjective, non-monetary losses including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation. Joint liability is preserved for economic damages.	Cal. Civ. Code Ann. § 1431.2 (2009)
Colorado	Modified Joint and Several Liability - In tort actions for death or injury to	Colo. Rev. Stat. § 13-21-111.5 (2009)

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	<p>person or property, no defendant shall be liable for an amount greater than their percentage of the negligence. If two or more individuals conspire to commit a tort, there is joint and several liability, but only up to the degree of fault attributed to the co-conspirator(s).</p>	
Connecticut	<p>Pure Several Liability - Each party against whom recovery is allowed shall be liable to the claimant only for such party's proportionate share of the damages, except where a liable party's share of judgment is uncollectible.</p>	Conn. Gen. Stat. Ann. § 52-572h (2009)
Delaware	<p>Pure Joint and Several Liability - Case law applies joint and several liability where the acts of joint tortfeasors concur in causing a single, indivisible injury. Contribution is available by statute.</p>	<u>Sears Roebuck & Co. v. Huang</u> , 652 A.2d 568 (Del. 1995); Del. Code Ann. Tit. 10 §§ 6302, 8132 (2009)
Florida	<p>Pure Several Liability – For negligence actions, including strict liability, products liability, and professional malpractice, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability. Pure Joint and Several Liability – For intentional acts</p>	Fla. Stat. Ann. § 768.81 (2009); <u>Barton Protective Services, Inc. v. Faber</u> , 745 So.2d 968 (Fla. Dist. Ct. App. 1999)
Georgia	<p>Pure Several Liability - Damages apportioned by the trier of fact shall be the liability of each person against whom they are awarded, shall not be a joint liability among the persons liable, and shall not be subject to any right of contribution.</p>	Ga. Code. Ann. § 51-12-33 (2009)
Hawaii	<p>Modified Joint and Several Liability - Joint and several liability is generally abolished. There are statutory exceptions (e.g., economic damages in personal injury, intentional torts, etc.).</p>	Haw. Stat. Ann. § 663-10.9 (2009)

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Idaho	<p>Modified Joint and Several Liability - Joint and several liability is limited to circumstances where two parties act together in the commission of an intentional or reckless tortious act or where a person acts as an agent of another party.</p>	Idaho Code § 6-803 (2009)
Illinois	<p>Modified Joint and Several Liability - All defendants found liable are jointly and severally liable for plaintiff's past and future medical and medically related expenses. If a defendant is found to be less than 25% liable, he is severally liable for the non-medical damages.</p>	735 Ill. Comp. Stat. 5/2-1117 (2009)
Indiana	<p>Pure Several Liability - To determine the liability of each defendant, the jury determines the percentage of fault attributable to each party and any non-party causes, then multiplies that percentage times the amount of damages.</p>	Ind. Code § 34-51-2-8 (2009)
Iowa	<p>Modified Joint and Several Liability - No joint and several liability for a defendant found to be less than 50% at fault. A defendant found to bear 50% or more of fault shall only be jointly and severally liable for economic damages.</p>	Iowa Code § 668.4 (2009)
Kansas	<p>Pure Several Liability - When recovery is allowed against more than one party, each such party shall be liable for that portion of the total dollar amount awarded as damages to any claimant in the proportion that the amount of such party's causal negligence bears to the amount of the causal negligence attributed to all parties against whom such recovery is allowed.</p>	Kan. Stat. Ann. § 60-258a (2009)
Kentucky	<p>Pure Several Liability - Liability for each tortfeasor is limited to equitable share of the obligation to each claimant in accordance with the respective percentages of fault.</p>	Ky. Rev. Stat. Ann. § 411.182 (2009)

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Louisiana	Modified Joint and Several Liability - A joint tortfeasor shall not be liable for more than his degree of fault unless joint tortfeasors conspire to commit an intentional or willful act.	La. Civ. Code Ann. Art. 2324 (2009)
Maine	Pure Joint and Several Liability - In cases involving multiple defendants, each defendant is jointly and severally liable to the plaintiff for the full amount of the plaintiff's damages.	Me. Rev. Stat. Ann. tit. 14 § 156 (2009)
Maryland	Pure Joint and Several Liability – The recovery of a judgment by the injured person against one joint tortfeasor does not discharge the other joint tortfeasor.	Md. Courts and Judicial Proceedings Code §§ 3-1403-1405 (2009); <u>Consumer Prot. Div. v. Morgan</u> , 874 A.2d 919 (Md. 2005)
Massachusetts	Pure Joint and Several Liability - Case law imposes joint and several liability. Right of contribution is available by statute.	<u>Shantigar Found. v. Bear Mountain Builders</u> , 804 N.E.2d 324 (Mass. 2004); Mass. Gen Laws ch. 231B, § 1 (2009)
Michigan	Modified Joint and Several Liability - In an action seeking damages for personal injury, property damage, or wrongful death involving the fault of more than one person, liability is several only and not joint. A person shall not be required to pay damages greater than his percentage of fault. Joint and several liability is maintained for certain medical malpractice actions when the plaintiff is found without fault.	Mich. Comp. Laws § 600.6304 (2009)
Minnesota	Modified Joint and Several Liability - Several liability unless (1) defendant's fault is 50% or greater; (2) two or more persons act in a common scheme or plan; (3) defendant commits an intentional tort; or (4) liability arises under one of several environmental statutes. Also, uncollectible amounts can be reallocated among the parties.	Minn. Stat. Ann. § 604.02 (2009)

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Mississippi	Modified Joint and Several Liability - The liability for damages caused by two or more persons shall be several only, and not joint and several. A joint tortfeasor shall be liable only for the amount of damages allocated to him in direct proportion to his percentage of fault. Joint and several liability with a right of contribution shall be imposed when two or more persons conspire to commit a tortious act.	Miss. Code Ann. § 85-5-7 (2009)
Missouri	Modified Joint and Several Liability - Several liability if the defendant is found less than 51% liable. Joint and several liability if the defendant is found 51% or more liable.	Mo. Ann. Stat. § 537.067 (2009)
Montana	Modified Joint and Several Liability - If a party is found to be less than 50% negligent, that party is liable for contribution only up to the percentage of negligence attributed to him. If a party is greater than 50% liable, then there is joint and several liability.	Mont. Code Ann. § 27-1-703 (2009)
Nebraska	Modified Joint and Several Liability - When two or more defendants act as part of a common enterprise or in concert to cause harm, the liability of each such defendant for economic and noneconomic damages shall be joint and several. In any other action involving more than one defendant, the liability of each defendant for economic damages shall be joint and several and the liability of each defendant for noneconomic damages shall be several only.	Neb. Rev. Stat. Ann. § 25-21,185.10 (2009)
Nevada	Modified Joint and Several Liability - Each defendant is severally liable unless action is based upon (1) strict liability; (2) intentional tort; (3) the emission of a hazardous substance; (4) concerted acts of two or more defendants; or (5) an injury resulting from a defective product.	Nev. Rev. Stat. Ann. 41.141 (2009)

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New Hampshire	Modified Joint and Several Liability - N.H. Rev. Stat. Ann. § 507:7-e (2009) Joint and several liability in all cases where the parties are found to have knowingly pursued or taken an active part in a common plan resulting in harm. In other cases, joint and several liability only for defendants 50% or more at fault. Contribution is available among joint tortfeasors.
New Jersey	Modified Joint and Several Liability - N.J. Stat. Ann. § 2A:15-5.3 (2009) Defendants found 60% or more liable have joint and several liability. If liability is under 60%, then defendant is only severally liable. Joint and several liability is imposed for environmental tort cases, except where the extent of negligence or fault can be apportioned. In such a case and where the recovering party is unable to recover the percentage of compensatory damages attributable to a non-settling insolvent party's negligence or fault, that amount of compensatory damages may be recovered from any non-settling party in proportion to the percentage of liability attributed to that party.
New Mexico	Modified Joint and Several Liability - N.M. Stat. Ann. § 41-3A-1 (2009) Each defendant is generally liable for only his share of the negligence. Joint and several liability shall apply (1) to defendants acting with the intention of inflicting injury or damage; (2) to defendants whose relationship to each other would make one person vicariously liable for the acts of the other; (3) to defendants who are strictly liable for the manufacture and sale of a defective product; or (4) to any other situation with a strong public policy for imposing joint and several liability.
New York	Modified Joint and Several Liability - N.Y. C.P.L.R. 1601 (2009) Several liability for non-economic damages only if defendant is found to be 50% or less liable.

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North Carolina	<p>Pure Joint and Several Liability - Unless altered by statute, joint tortfeasors are jointly and severally liable. Contribution is available among joint tortfeasors.</p>	<p><u>Ipock v. Gilmore</u>, 326 S.E.2d 271, 274-75 (N.C. Ct. App. 1985)</p>
North Dakota	<p>Modified Joint and Several Liability - When two or more parties are found to have contributed to the injury, the liability of each party is several only. Each party is liable only for the amount of damages attributable to the percentage of fault of that party. Persons who act in concert in committing a tortious act are jointly liable for all damages attributable to their combined percentage of fault.</p>	<p>N.D. Cent. Code § 32-03.2-02 (2009)</p>
Ohio	<p>Modified Joint and Several Liability - Several liability for non-economic losses. There is joint and several liability for economic losses if defendant is found (1) greater than 50% liable for an unintentional tort, or (2) any percentage liable for an intentional tort. Several liability for economic damages for defendant found 50% or less liable for an unintentional tort.</p>	<p>Ohio Rev. Code Ann. § 2307.22 (2009)</p>
Oklahoma	<p>Modified Joint and Several Liability Except for actions brought by or on behalf of the state, there is joint and several liability for any joint tortfeasor who acts with willful, wanton or reckless conduct, and for any defendant who is greater than 50% liable. Otherwise, liability is several.</p>	<p>Okla. Stat. Ann. tit. 23 § 15 (2009).</p>
Oregon	<p>Modified Joint and Several Liability - When two or more defendants are found liable for Plaintiff's injuries, the liability is several and not joint. There are exceptions for cases involving hazardous materials and pollution.</p>	<p>Or. Rev. Stat. § 31.610 (2009)</p>

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Pennsylvania	Pure Joint and Several Liability - The plaintiff may recover the full amount of the allowed recovery from any defendant against whom the plaintiff is not barred from recovery. Any defendant who is so compelled to pay more than his percentage share may seek contribution.	42 Pa. Cons. Stat. Ann. § 7102 (2006); <u>DeWeese v. Weaver</u> , 880 A.2d 54 (Pa. Commw. 2005) (finding legislative amendment imposing modified joint and several liability as unconstitutional) <u>aff'd</u> , 906 A.2d 1193 (Pa. 2006).
Rhode Island	Pure Joint and Several Liability - Comparative negligence state with a right of contribution from joint tortfeasor if one defendant pays greater than his <i>pro rata</i> share of the damages.	R.I. Gen. Laws § 9-20-4 (2009)
South Carolina	Pure Joint and Several Liability - Case law follows pure joint and several liability. Right of contribution is available by statute.	<u>Travelers Ins. Co. v. Allstate Ins. Co.</u> , 155 S.E.2d 591 (S.C. 1967) (commenting that a plaintiff injured by more than one joint tortfeasor can pursue the payment of a judgment against one or more of judgment debtors); S.C. Code Ann. § 15-38-20 (2009)
South Dakota	Modified Joint and Several Liability - Joint and several liability is limited for defendants that are found less than 50% at fault. Those defendants will not pay more than twice their percentage of fault.	S.D. Codified Laws § 15-8-15.1 (2009)
Tennessee	Pure Several Liability - Defendant only liable for the percentage of a plaintiff's damage occasioned by that defendant's negligence.	<u>McIntyre v. Balentine</u> , 833 S.W.2d 52 (Tenn. 1992)

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Texas	<p>Modified Joint and Several Liability - If a defendant's percentage of the damages is 50% or less of the total liability, the defendant is only responsible for his percentage of responsibility. A defendant is jointly and severally liable, however, if: a) that defendant's percentage of responsibility is greater than 50%, or b) the defendant, with specific intent to do harm to others, acted in concert with another person to commit one of the crimes listed in the statute (e.g., murder, sexual assault, forgery, etc.).</p>	Tex. Civ. Prac. & Rem. Code Ann. § 33.013 (2009)
Utah	<p>Pure Several Liability - Defendant liable only for the percentage or proportion of the damages equivalent to the percentage or proportion of fault attributed to that defendant. A defendant is not entitled to contribution from any other person.</p>	Utah Code Ann. § 78B-5-820 (2009)
Vermont	<p>Modified Joint and Several Liability - Multiple joint tortfeasors are jointly and severally liable except where: a) the plaintiff is comparatively negligent, and b) multiple tortfeasors are found liable in one action. Where the plaintiff is comparatively negligent and recovery is allowed against more than one defendant, each defendant is liable only for his percentage of the negligence attributed to all defendants against whom recovery is allowed.</p>	Vt. Stat. Ann. tit. 12 § 1036 (2009); <u>Levine v. Wyeth</u> , 2006 WL 3041078 (Vt. Oct. 27, 2006)
Virginia	<p>Pure Joint and Several Liability – Joint tortfeasors are jointly and severally liable for a single, indivisible injury to a third person. Contribution is available by statute when the wrong results from negligence and involves no moral turpitude. When a claim for contribution is made, each wrongdoer is responsible for an equal share of the amount paid in damages for a single, indivisible injury</p>	<u>Maroulis v. Elliot</u> , 151 S.E.2d 339 (Va. 1966) (revealing that joint tortfeasors will be jointly and severally liable for all of the plaintiff's indivisible injuries); Va. Code Ann. § 8.01-443 (2009); Va. Code Ann. § 8.01-34 (2009); <u>Sullivan v. Robertson Drug Co., Inc.</u> , 639 S.E.2d 250 (Va. 2007).

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Washington	Modified Joint and Several Liability - Liability is several, but there is joint and several liability if: a) defendants acted in concert or a person was acting as an agent or servant of the party, or b) the plaintiff was not at fault. The statute is not applicable to cases involving hazardous waste, tortious interference with contracts or business relations, or the manufacture of generic products.	Wash. Rev. Code Ann. § 4.22.070 (2007)
West Virginia	Modified Joint and Several Liability - West Virginia is a pure joint and several liability jurisdiction except in two circumstances: (1) In cases of medical malpractice, there is several liability (health care providers may also be held responsible for the portion of fault attributed to them for the acts of their agents under a claim of vicarious liability); and (2) In actions against a political subdivision or its employee to recover damages for injury, death or loss to persons or property, joint and several liability shall apply to every defendant who bears 25% or more of the negligence attributable to all defendants. Several liability applies to all defendants who bear less than 25% of the negligence attributed to all defendants. Also, contribution is available among joint tortfeasors except where the act is <i>malum in se</i> (i.e. inherently and essentially evil). A contribution claim can only be maintained between defendants found jointly liable in the same action.	<u>Straihin v. Cleavenger</u> , 603 S.E.2d 197 (W.Va. 2004) (applying joint and several liability even though one of the joint tortfeasors was liable for an intentional tort and the other for negligence); W. Va. Code Ann. § 55-7B-9 (2007) (medical malpractice); W. Va. Code Ann. § 29-12a-7(d) (2009) (cases involving political subdivisions); W. Va. Code Ann. § 55-7-13 (2009) (contribution); <u>Haynes v. City of Nitro</u> , 240 S.E.2d 544 (W. Va. 1977) (holding that contribution is not permitted where the act is <i>malum in se</i>); <u>Charleston Area Med. Ctr., Inc. v. Parke-Davis</u> , 614 S.E.2d 15 (W. Va. 2005) (holding that a tortfeasor who negotiates and consummates a settlement with an injured party on behalf of itself before any lawsuit is filed cannot subsequently bring an action seeking contribution).

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Wisconsin	Modified Joint and Several Liability - The liability of each person found to be causally negligent whose percentage of causal negligence is less than 51% is limited to the percentage of causal negligence attributed to him. A person whose percentage of liability is 51% or greater is jointly and severally liable. Two or more persons who act in accordance with a common scheme or plan are jointly and severally liable. Joint and several liability does not apply to punitive damages.	Wis. Stat. Ann. § 895.045 (2009); Wis. Stat. Ann. § 895.043(5) (2009) (punitive damages)
Wyoming	Pure Several Liability - Each defendant is liable only to the extent of that defendant's proportion of the total fault.	Wyo. Stat. Ann. § 1-1-109 (2009)

This survey should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult a lawyer concerning your own situation with any specific legal question you may have.