

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) (2007)
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 (2007).
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 (2006)
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 (2007)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

Colorado	Modified Joint and Several Liability - In an action brought as a result of a death or an injury to person or property, no defendant shall be liable for an amount greater their percentage of the negligence or fault. If two individuals conspire to commit a tort, there is joint and several liability.	Colo. Rev. Stat. § 13-21-111.5 (2007)
Connecticut	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.	Conn. Gen. Stat. Ann. § 52-572h (2007)
Delaware	Pure Joint and Several Liability - Case law applies joint and several liability for joint tortfeasors that share liability in causing an injury. Contribution is available by statute.	<i>Sears Roebuck & Co. v. Huang</i> , 652 A.2d 568 (Del. 1995); Del. Code Ann. Tit. 10 §§ 6302, 8132 (2007)
Florida	Pure Several Liability - 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.	Fla. Stat. Ann. § 768.81 (2007)
Georgia	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.	Ga. Code. Ann. § 51-12-33 (2006)
Hawaii	Modified Joint and Several Liability - Joint and several liability is generally abolished, except in certain circumstances.	Haw. Stat. Ann. § 663-10.9 (2006)
Idaho	Modified Joint and Several Liability - Joint and several liability is abolished, except in the circumstances where two parties are acting together in the commission of an intentional or reckless tortious act.	Idaho Code § 6-803 (2007)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

Illinois	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.	735 Ill. Comp. Stat. 5/2-1117 (2007)
Indiana	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.	Ind. Code § 34-51-2-8 (2007)
Iowa	Modified Joint and Several Liability - No joint and several liability unless defendant is found to be 50% or greater at fault.	Iowa Code § 668.4 (2007)
Kansas	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.	Kan. Stat. Ann. § 60-258a (2006)
Kentucky	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.	Ky. Rev. Stat. Ann. § 411.182 (2006)
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 and willful act.	La. Civ. Code Ann. art. 2324 (2006)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

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 (2007)
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 (2007); <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 (2007)
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 (2007)
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, (4) under one of several environmental statutes, or (5) a person who makes an illegal sale of alcoholic beverages. Also, uncollectible amounts can be reallocated among the parties.	Minn. Stat. Ann. § 604.02 (2007)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

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 and a joint tortfeasor shall be liable only for the amount of damages allocated to him in direct proportion to his percentage of fault unless two or more persons conspire to commit a tortious act, then there is joint and several liability with a right of contribution.	Miss. Code Ann. § 85-5-7 (2007)
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 (2007)
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 (2005)
Nebraska	Modified Joint and Several Liability - The liability for each defendant for economic damages is joint and several when two or more defendants act as part of a common enterprise or in concert to cause harm. The liability for non-economic damages is several only. If defendants conspire to commit the harm, there is joint and several liability for all damages.	Neb. Rev. Stat. Ann. § 25-21,185.10 (2006)
Nevada	Modified Joint and Several Liability - Joint and several liability abolished unless action is based upon (1) strict liability, (2) intentional tort, (3) the emission of a hazardous substance, (4) concerted acts of 2 or more defendants, or (5) an injury resulting from a defective product.	Nev. Rev. Stat. Ann. 41.141 (2006)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

New Hampshire	Modified Joint and Several Liability - Joint and several liability unless defendant is found less than 50% liable, then there is only several liability.	N.H. Rev. Stat. Ann. § 507:7-e (2007)
New Jersey	Modified Joint and Several Liability - Defendants found 60% or greater liable have joint and several liability. If liability is under 60%, then there is several liability. There is joint and several liability for all environmental tort cases.	N.J. Stat. Ann. § 2A:15-5.3 (2007)
New Mexico	Modified Joint and Several Liability - In all cases to which comparative fault applies, the doctrine imposing joint and several liability upon two or more wrongdoers whose conduct proximately caused an injury to any plaintiff is abolished except in the cases of (1) defendants acting with the intention of inflicting damages, (2) any persons whose relationship to each other would make one person vicariously liable for the acts of the other, but only to that portion of the total liability attributed to those persons, (3) product liability, or (4) any other situation with a strong public policy for imposing joint and several liability.	N.M. Stat. Ann. § 41-3A-1 (2007)
New York	Modified Joint and Several Liability - Several liability for non-economic damages only if defendant is found to be 50% or less liable.	N.Y. C.P.L.R. 1601 (2007)
North Carolina	Pure Joint and Several Liability - Common law is incorporated as the law of the state unless a statute specifically alters it. There is contribution among joint tortfeasors, and joint and several liability is imposed unless the harm is clearly divisible among defendants.	<u>Fulk v. Piedmont Music Ctr.</u> , 531 S.E.2d 476 (N.C. Ct. App. 2000) (indicating that there is no joint and several liability when the harm is clearly divisible among defendants); <u>Charnock v. Taylor</u> , 26 S.E.2d 911 (N.C. 1943) (ruling that the liability of joint tortfeasors to one who has sustained an injury through their common negligence is joint and several).

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

North Dakota	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, and is not joint, and each party is liable only for the amount of damages attributable to the percentage of fault of that party, except that any persons who act in concert in committing a tortious act or aid or encourage the act, or ratifies or adopts the act for their benefit, are jointly liable for all damages attributable to their combined percentage of fault.	N.D. Cent. Code § 32-03.2-02 (2005)
Ohio	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.	Ohio Rev. Code Ann. § 2307.22 (2007)
Oklahoma	Modified Joint and Several Liability - Several liability unless defendant is greater than 50% liable or if any joint tortfeasors acted with willful and wanton conduct or with reckless disregard of the consequences of the conduct, then there is joint and several liability.	Okla. Stat. Ann. tit. 23 § 15 (2007).
Oregon	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.	Or. Rev. Stat. § 31.610 (2005)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

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 pro rata share of the damages.	R.I. Gen. Laws § 9-20-4 (2006)
South Carolina	Pure Joint and Several Liability - Case law follows pure joint and several liability. 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 (2006)
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 (2006)
Tennessee	Pure Several Liability - Joint and several liability is rendered obsolete.	<u>McIntyre v. Balentine</u> , 833 S.W.2d 52 (Tenn. 1992)
Texas	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.).	Tex. Civ. Prac. & Rem. Code Ann. § 33.013 (2007)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

Utah	Pure Several Liability - Joint and several liability abolished.	Utah Code Ann. § 78-27-40 (2006)
Vermont	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.	Vt. Stat. Ann. tit. 12 § 1036 (2006); <u>Levine v. Wyeth</u> , 2006 WL 3041078 (Vt. Oct. 27, 2006)
Virginia	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	<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 (2006); Va. Code Ann. § 8.01-34 (2007); <u>Sullivan v. Robertson Drug Co., Inc.</u> , 639 S.E.2d 250 (Va. 2007).
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. This section is not applicable to cases involving hazardous waste, tortious interference with contracts or business relations, or in the manufacture of generic products.	Wash. Rev. Code Ann. § 4.22.070 (2007)

NATIONAL JOINT AND SEVERAL LIABILITY SURVEY

West Virginia	<p>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); (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.</p>	<p><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) (2007) (cases involving political subdivisions); W. Va. Code Ann. § 55-7-13 (2007) (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).</p>
Wisconsin	<p>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.</p>	<p>Wis. Stat. Ann. § 895.045 (2007); Wis. Stat. Ann. § 895.043(5) (2007) (punitive damages)</p>
Wyoming	<p>Pure Several Liability - Each defendant is liable only to the extent of that defendant's proportion of the total fault.</p>	<p>Wyo. Stat. Ann. § 1-1-109 (2007)</p>