

ALASKA

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1. In your state, what are the categories of damages that are available in tort?

Compensatory and punitive damages are available. Special Damages (wage loss, future earnings, past medical expenses, future medical expenses, property damage, etc.); general damages for pain, suffering inconvenience, physical impairments, disfigurement, loss of enjoyment of life, loss of consortium and other non-pecuniary damages. AS 09.17.010(a)

2. Are there any limitations or caps on recovery in tort actions?

Non-economic damages are limited to the greater of \$400,000 or \$8,000 multiplied by the plaintiff's life expectancy. In cases of severe disfigurement or permanent physical impairment, the non-economic damage limit is \$1,000,000 or \$25,000 multiplied by the plaintiff's life expectancy. Alaska Statutes ("AS") 09.17.010.

Non-economic damages in medical malpractice actions may not exceed \$250,000. AS 09.55.549.

Punitive damages are capped at the greater of three times the amount of compensatory damages or \$500,000. AS 09.17.020(f).

3. Are attorneys' fees available in tort actions? If so, under what circumstances?

Yes. Partial reimbursement of attorneys' may be awarded to the prevailing party. *See* AS 09.60.010; Alaska R. Civ. P. 82; *See Cooper v. Carlson*, 511 P.2d 1305, 1308 (Alaska 1973).

Alaska R. Civ. P. 82 sets a reimbursement schedule for the prevailing party in cases where money is recovered.

	Judgement & if Awarded Prejudgment Interest	Contested w/Trial	Contested w/out Trial	Non-Contested
First	\$25,000	20%	18%	10%
Next	\$75,000	10%	8%	3%
Next	\$400,000	10%	6%	2%
Over	\$500,000	10%	2%	1%

In cases in which the prevailing party does not recover a money judgment, the presumption is that the prevailing party is entitled to 30% of the prevailing party's attorney fees if a case goes to trial, and 20% of attorney fees in other cases. Alaska R. Civ. P. 82(b)(2).

An offer of judgment may trigger an enhanced attorney fee award of 30% to 75% of the prevailing party's actual attorney fees. Alaska R. Civ. P. 68.

In wrongful death cases, the personal representative is a nominal party only, and not liable for fees. Beneficiaries are not parties to the litigation and may not be liable. Zaverl v. Hanley, 64 P.3d 809 (Alaska 2003); In re Soldotna Aircrash Litigation, 835 P.2d 1215 (Alaska 1992).

4. Are there any instances in tort actions when pre-judgment interest is available for recovery?

Yes. The rate of prejudgment interest is "three percentage points above the Twelfth Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered." AS 09.30.070.

Prejudgment interest may not be awarded for future economic losses, future noneconomic losses, or punitive damages. AS 09.30.070(c). McConkey v. Hart, 930 P.2d 402 (Alaska 1996); Anderson v. Edwards, 625 P.2d 282 (Alaska 1981).

5. In your state what proof is necessary to establish a right of recovery for economic damages, i.e. lost wages, medical expenses, etc.?

Past and future economic and non-economic losses must be itemized. AS 09.17.040(a).

6. Is there any distinction in your state relative to recovery for economic versus non-economic damages?

There is no recovery for emotional distress in negligence or negligent infliction of emotional distress without physical injury. Hancock v. Northcutt, 808 P.2d 251 (Alaska 2002).