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CONNECTICUT

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1. **What are the statute of limitations for tort and contract actions as they relate to the transportation industry.**

   The statute of limitations regarding tort actions is three years from the date of the act or omission complained of. *Connecticut General Statutes § 52-577.* The statute of limitations regarding contract actions is within three years if the contract is made orally and not reduced to writing (*Connecticut General Statutes § 52-581)* and within six years if it is in writing. (*Connecticut General Statutes § 52-576).*

2. **What effects, if any, has the COVID Pandemic had on tolling or extending the statute of limitation for filing a transportation suit and the number of jurors that are sat on a jury trial.**

   The COVID Pandemic has affected the statute of limitations in Connecticut. Governor Ned Lamont issued Executive Order 7G on March 19, 2020. This order suspended statute of limitations. Governor Lamont later issued Executive Order 10A which stated that Executive Order 7G's suspension of the statute of limitations would expire on March 1, 2021. Exactly what the suspension meant is still being litigated.

   The argument has been made that where the statute of limitations was to expire during that time frame, the action had to be initiated by March 1, 2021. However, in a recent case in the judicial district of Tolland/Rockville, the Court held the suspension tolled the time frame to file. Specifically, in that case, when the executive order went into effect, plaintiff had 329 days to file their action. The plaintiff argued the 329 days started to run on March 1, 2021, the date the executive order expired. The Court agreed. Dispositive motions are still pending on this same issue in other cases.

3. **Does your state recognize comparative negligence and if so, explain the law.**

   Yes, Connecticut does recognize comparative negligence. Recovery is allowed if the individual is not more at fault, then the other individuals (51%). It shall not bar recovery, but it shall diminish the award of compensatory damages proportionately, according to the measure of responsibility attributed to the claimant. *Connecticut General Statutes § 52-572o*.

4. **Does your state recognize joint tortfeasor liability and if so, explain the law.**

   Connecticut defendants in negligence cases are subject to several-only liability. *Conn. Stat. § 52-572h* (1986); *Collins v. Colonial Penn Ins. Co*., 778 A.2d 899 (Conn. 2001). Joint and several liability remains the rule for actions that do not sound in negligence. *Conn. Stat. § 52-572h* (1986); *Allard v. Liberty Oil Equip. Co. Inc., 756 A.2d 237* (Conn. 2000). Where the plaintiff is unable to collect from a defendant, however, the uncollectable portion of his damages may be reapportioned among

the remaining defendants in the same proportion as their share of liability. *Conn. Stat. § 52-572h* (1986); *Babes v. Bennett, 721 A.2d 511* (Conn. 1998). In case of such reapportionment, the right of contribution exists. *Conn. Stat. § 52-572h* (1986)

5. **Are either insurers and/or insureds obligated to provide insurance limit information pre-suit and if so, what is required.**

Yes, under *Public Act No. 09-240* an automobile insurer must disclose the limits applicable to the policy and a letter from a licensed attorney if requested by the individual that is alleging, they suffered bodily injury. The letter must contain, the attorney's juris number, the type of claim, the date and approximate time of the alleged incident, description of the injuries caused by the insured and a copy of the medical bills, and a copy of the accident report.

6. **Does your state have any monetary caps on compensatory, exemplary or punitive damages.**

Connecticut does not cap compensatory damages.

Statutes which provide for punitive damages awards usually specify their amount or establish a maximum dollar figure. Where punitive damages are awarded under the common law, or the applicable statute is silent as to their amount, the general rule is that they are limited to plaintiff's attorney's fees and nontaxable costs (*see Bodner v. United Servs. Auto. Ass'n,* 222 Conn. 480, 492 (1992)). In *Bodner,* the Court observed that this rule provides some punishment and deterrence in addition to compensation of the victim. The Court reiterated the reasoning articulated in *Waterbury Petroleum Products, Inc. v. Canaan Oil and Fuel Co.,* 193 Conn. 208, 237-38 (1984), where it rejected plaintiff's claims that punitive damages should not be limited to the expense of litigation less taxable costs.

Punitive damages awards are limited to the costs of litigation less taxable costs. This rule fulfills the salutary purpose of fully compensating a victim for the harm inflicted on him while avoiding the potential for injustice which may result from the exercise of unfettered discretion by a jury.

7. **Has your state recently implemented any court reforms which may affect transportation lawsuits or is your state planning to, and if so explain the reforms.**

House Bill No. 6484 was signed into effect on July 12, 2021, by Governor Lamont. This bill reformed various aspects of transportation. A motor vehicle crossing a bridge with an excessive weight, over the stated limited, shall constitute reckless driving by the operator of the vehicle. If a vehicle is operated with height that exceeds the posted limits the operator will be deemed to have committed an infraction and fined no more than one thousand five hundred dollars and subsequent offenses be guilty of a class A misdemeanor.

8. **How many months generally transpire between the filing of a transportation related complaint and a jury trial.**

It would take approximately two years from the time of filing to a jury trial. With the effects from the pandemic there has been a back log of jury trials which has extended this time up to an additional year or more.

9. **When does pre-judgment interest begin accumulating and at what percent rate of interest.**

Pre-judgment interest shall be computed from the date the complaint is filed with the court if the offer of

compromise was filed not later than eighteen months from the filing of the complaint. If later than eighteen months, then it will be computed at the date of the offer of compromise. This interest rate shall be at eight percent annually. *Connecticut General Statute § 52-192a*.

10. What evidence at trial are the parties allowed to enter into evidence concerning medical expense related damages.

Evidence regarding insurance or payments will not be admitted into evidence concerning medical expenses.

11. Does your state recognize a self-critical analysis or similar privilege that shields internal accident investigations from discovery?

Connecticut does not recognize a "self-evaluative" and/or "self-critical" privilege by way of the common law nor statute. Defendants have asked Connecticut Courts to rely on federal cases to support of finding that such a privilege exists, but Connecticut Courts have not adopted the reasoning of other jurisdictions. The self-critical analysis privilege has led a checkered existence in the federal courts. Neither the Supreme Court nor the Second Circuit has settled the question of whether the self-critical analysis privilege should be recognized as a matter of federal law.

12. Does your state allow independent negligence claims against a motor carrier (i.e. negligent hiring, retention, training) if the motor carrier admits that it is vicariously liable for any fault or liability assigned to the driver?

Yes, but it would be advantageous for the motor carrier to not admit this vicarious liability.

Connecticut adheres to the traditional principle of Respondeat Superior. Employers are vicariously liable, under the respondeat superior doctrine, for negligent acts or omissions by their employee in the course of employment. *Jagger v. Mohawk Mountain Ski Area, Inc., 269 Conn. 672, 692* (2004). The doctrine of respondeat superior focuses on the employees conduct rather than on the employer's knowledge or approval of the acts. If the employee acted with apparent authority in furtherance of the employer's business, the employer's consent or ratification of the misconduct is irrelevant for the purposes of determining liability. *Glucksman v. Walters, 38 Conn. App. 140, 144* (1995).

To assert a derivative claim based on negligent retention, a plaintiff must plead: (1) that an employer, during the course of employment, became aware of problems that indicate an employee's lack of fitness for a particular position; (2) the unfitness is likely to cause a harm similar to the harm the plaintiff incurred; and (3) the employer failed to take action. See *Faggio v. Brown, 2006 Conn. Super LEXIS 1469* (Conn. Super. May 16, 2006). In order to prevail in an action alleging negligent hiring, a plaintiff must plead and prove that an employer knew or should have known of an employee's past activities and that knowledge was enough to notify the employer of the likelihood the employee would engage in similar conduct that would cause a third party injury. *Demaria v. Country Club of Fairfield, 2006 Conn. Super. LEXIS 232* (Conn. Super. Jan. 17, 2003); See also *Vasudevan v. Pragosa, 2006 Conn. Super. LEXIS 207* (Conn. Super. Jan. 20, 2006) (holding that employer should have known its employee had the propensity to engage in conduct which would breach duty owed to third party).

Derivative negligence claims such as negligent hiring, supervision and retention are direct claims of negligence that do not depend on vicarious liability imposed on an employer via the doctrine of respondeat superior. *Gutierrez v. Thorne, 13 Conn. App. 493, 537* (1988). The derivative claims exist independently because they allege negligence directly against an employer who failed to exercise reasonable care. *Seguro v. Cumminskey, 82 Conn. App. 186* (2004). It is a special type of liability where a third party is injured not by an employee's negligence, but by the employer's own 3 negligence in failing to select an employee fit or

competent to perform the services of employment. *Shore v. Stonington, 187 Conn. 147, 155* (1982).

13. **Does your jurisdiction have an independent claim for spoliation? If not, what are the sanctions or repercussions for spoliation?**

Yes. The Connecticut Supreme Court first recognized an independent cause of action for intentional spoliation of evidence in *Rizzuto v. Davidson Ladders, Inc*., 280 Conn. 225 (2006). There, plaintiff climbed a ladder manufactured by defendant, when the ladder suddenly collapsed causing plaintiff injuries. Plaintiff alleged defendants' intentional, bad faith destruction of the ladder deprived him of the evidence he needed to establish a prima facie case of product liability.

The Court concluded existing non-tort remedies were insufficient to compensate victims of spoliation, and were ineffective in deterring future intentional, bad faith spoliation of evidence and, thus, recognition of the new cause of action against first party defendant spoliator was warranted.

In *Diana v. NetJets Services, Inc.,* 50 Conn.Supp. 655 (December 12, 2007) (Bellis, J.), the superior court looked to the reasoning in *Rizzuto* and held Connecticut also recognizes a cause of action for third party, intentional spoliation of evidence.