

Maine

Are preventability determinations and internal accident reports discoverable or admissible in your state? What factors determine discoverability or admissibility?

Yes, unless the reports are specifically prepared in anticipation of litigation, they are discoverable. Admissibility would depend on a host of factors that can only be analyzed in specific factual situations and prior to trial.

Does your state permit discovery of 3rd party litigation funding files and, if so, what are the rules and regulations governing 3rd party litigation funding?

That issue is still not decided in Maine. If a party can demonstrate that it is discoverable, in the ordinary course, then this issue will be addressed on a case by case basis.

What is the procedure for the resolution of a claim for injuries to a minor in your state? Does the minor's age affect the statute of limitations for a personal injury claim?

Maine has statutory and rules of civil procedure (M.R.Civ.P. 17A and 18 MRS § 3652) in any litigated matter and can be used whenever someone younger than 18 is involved. The SOL is tolled for minors till they reach 18.

What are the advantages or disadvantages in your State of admitting that a motor carrier is vicariously liable for the fault of its driver in the context of direct negligence claims?

There are none unless it might vitiate a negligent entrustment claim.

What is the standard applied for spoliation of physical and/or documentary evidence in your state?

Evidence must be preserved if one has notice that the evidence is relevant to a dispute or one has a reasonable knowledge that the evidence may be relevant in the future. Maine law provides that a judge can impose a range of penalties for spoliation ranging from exclusion of the evidence to dismissal.

Is the amount of medical expenses actually paid by insurance or others (as opposed the amounts billed) discoverable or admissible in your State?

This issue remains an open question. However, courts are now leaning towards admitting only the amount billed, as opposed to admitting both the amount paid and the amount billed, as had been the majority position.

What is the legal standard in your state for obtaining event data recorder (“EDR”) data from a vehicle not owned by your client?

EDR data from others can only be had with permission or by subpoena.

What is your state’s current standard to prove punitive or exemplary damages against a motor carrier or broker and is there any cap on same?

Punitive damages can only be had in Maine when a party proves actual malice.

Has your state had any noteworthy recent punitive damages verdicts? If so, what evidence was admitted supporting issuance of a punitive damages instruction? Finally, are any such verdicts currently on appeal?

No, there have been none.

Does your state permit an expert to testify as to content of the FMCSRs or the applicability of the FMCSRs to a certain set of facts?

Under Maine’s expert admissibility standard, opinions regarding FMCSR would be admissible if they would assist the jury and expert was competent.

Does your state consider a broker or shipper to be in a “joint venture” or similar agency relationship with a motor carrier for purposes of personal injury or wrongful death claims?

That issue has not been addressed in Maine.

Provide your state’s comparative/contributory/pure negligence rule.

Maine’s comparative negligence statute provides that if a plaintiff is equally or more negligent, he cannot recover.

Provide your state’s statute of limitations for personal injury and wrongful death claims.

Maine has a 6 year SOL for most personal injuries and 2 year SOL for wrongful death.

In your state, who has the authority to file, negotiate, and settle a wrongful death claim and what must that person’s relationship to the decedent be?

Only the personal representative of the estate, duly appointed, may pursue a wrongful death claim. There is no familial requirement for a personal representative.

Is a plaintiff’s failure to wear a seatbelt admissible at trial?

It is not.

In your state, are there any limitations on damages recoverable for plaintiffs who do not have insurance coverage on the vehicle they were operating at the time of the accident? If so, describe the limitation.

No.

How does your state determine applicable law/choice of law questions in motor vehicle accident cases?

Choice of law is based on the Restatement and familiar choice of law standards including domicile of the injured person, location of accident, etc.