

California Among Twelve States That Follow “Pure Comparative Fault” in Car Accident Cases

Different states use different methods to allocate liability in personal injury actions where both parties share some of the blame. by Catherine Kimble

PALMDALE, CALIFORNIA, UNITED STATES, August 11, 2021 /EINPresswire.com/ -- In the field of personal injury law (negligence), there are different ways to determine how responsible each party is and how damages should be distributed, and every state is different. This article describes the types of contributory or comparative negligence found in jurisdictions around the country.

When more than one party is partly to blame in an accident, such as a car crash, whether or not an injured negligent party can recover damages from another negligent party depends on the law of comparative fault in the state where the accident occurred. States allocate fault in one of four different ways:

1. Pure Contributory Negligence Rule/Defense
2. Pure Comparative Fault
3. Modified Comparative Fault
4. Slight/Gross Negligence Comparative Fault

Under pure contributory negligence, the party who is seeking damages cannot receive any compensation if their negligence contributed in any way to the accident, even if they were only one percent at fault compared to the other party's 99%. Four states practice pure contributory negligence: Alabama, Maryland, North Carolina, and Virginia. The District of Columbia also practices pure contributory negligence. This method is criticized for being too harsh against the party seeking damages.



Paul M. Kistler, Palmdale Personal Injury Lawyer

On the opposite end of the spectrum from pure contributory negligence is pure comparative fault. Under this standard, the party who is seeking damages could recover even if they were 99 percent at fault. However, the amount of damages they receive is reduced by the amount that they are at fault. For example, if a party is seeking \$100,000 in damages and they are found to be 99 percent at fault, the amount the party will receive in damages is reduced by 99 percent, or \$99,000, and the party seeking damages will only receive \$1,000 in damages. This method has been criticized for allowing a party to seek damages (plaintiff) who is much more at fault than the party having to pay the damages (defendant). Twelve states practice pure contributory negligence. These states are Alaska, Arizona, California, Florida, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, New York, Rhode Island, and Washington.



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*Paul M. Kistler, Palmdale
Personal Injury Lawyer*

California personal injury attorney Paul Kistler of the [Kistler Law Firm, APC in Palmdale, California](#), gives an example of how pure comparative fault works. “If a party was making a left turn on a green light but failed to yield to oncoming traffic, they will generally be held one hundred percent liable for the accident. However, if the oncoming vehicle had been speeding, that driver might be considered partially at fault for contributing to the accident.” In that case, the left-turning driver might be 70% at fault and the speeding driver 30% to blame. “In California,” explains Kistler, “the speeding driver’s claim would be reduced by 30%.” Kistler also points out that the

left-turning driver would have a claim against the speeder but could only collect 30% of their damages due to being 70% responsible for the crash. “Although many states would not allow for a party that is more than fifty percent liable to make a claim, the California approach is fairer and produces a more equitable result for injured parties,” Kistler concludes.

In between pure contributory negligence and pure comparative fault are a couple of forms of modified comparative fault. Here, as with pure comparative fault, the party seeking damages will have the amount of money they receive in damages reduced by the amount they are at fault. However, if the party seeking damages is found to be at a certain percentage of fault (usually

50% or 51%), then they cannot receive damages. This method has received criticism because it can be confusing for juries regarding how to allocate a percentage of fault when there are multiple parties. Ten states follow the 50% Bar Rule, where a party cannot receive damages if they are found to be at least 50 percent at fault. Some of these states are Arkansas, Colorado, Georgia, Idaho, Maine, and Nebraska. Twenty-three states follow the 51% Bar Rule, where a party cannot receive damages if they are found to be at least 51 percent at fault. Some of these states are Delaware, Hawaii, Illinois, Iowa, Massachusetts, Michigan, New Hampshire, and New Jersey.

Finally, one state (South Dakota) uses the Slight/Gross Comparative Fault Rule. This is where the fault between the plaintiff and the defendant is only compared if the plaintiff's amount of fault is "slight" and the defendant's amount of fault is "gross." However, if this is not the case, then the plaintiff cannot receive damages. This rule is a compromise between pure comparative negligence and comparative fault. This method has received criticism because it is not clear on what is considered "slight" and what is considered "gross."

No matter what state you live in, it may be worthwhile to speak with an attorney if you suffered a serious injury in an accident, even if you believe you were partially to blame. Most personal injury attorneys offer a free consultation and take cases on a contingency fee basis, so it shouldn't cost you anything to have a lawyer look at your case. "In cases where the injuries are slight, the comparative liability might make a claim economically unfeasible to pursue, but in cases where there is a substantial or permanent injury, it might be very wise to pursue a claim," says attorney Paul Kistler. "Our office has been able to obtain large verdicts and settlements for clients who initially thought that they did not have a claim."

Paul M. Kistler
Kistler Law Firm
+1 661-206-6990

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