

# Lawsuit 101: What You Need To Know

## (How Your State's Liability And Damage Laws Impact Your Inflatable Insurance)

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In a potential lawsuit or claim, there are different legal systems applied by the states in establishing damage awards. Legal and financial responsibility are determined by the courts -- or your claims adjustor -- using the applicable laws of your state which determine liability and what percentage of the verdict you/your business will pay if found at fault in a personal injury lawsuit.

*See below for how courts or, in most cases, your claims adjustor determine (1) if there is to be an award of damages AND (2) who is responsible for paying the damage verdict.*



### 1st Stage: Determination If There Is To Be Any Award Of Damages

**Contributory Negligence** If the plaintiff is determined to have contributed to his/her own injury (even if it was only a very slight factor), then the plaintiff is not entitled to a favorable verdict. This system applies in these 5 states: ALABAMA, MARYLAND, NORTH CAROLINA, VIRGINIA, and DISTRICT OF COLUMBIA.

**Pure Comparative Negligence** is not as favorable from an underwriting standpoint, since it can be reasonably anticipated that the plaintiff will be awarded some amount. If you do business in one of the following 13 states this system applies: ALASKA, ARIZONA, CALIFORNIA, FLORIDA, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, NEW MEXICO, NEW YORK, RHODE ISLAND, SOUTH DAKOTA and WASHINGTON.

**Modified Comparative Fault System** In this system, the percentage of fault attributed to the plaintiff will determine if any damages are awarded to them.

**Law: The -50% Rule** says the plaintiff recovers the full amount of the verdict ONLY if he/she contributed less than 50% to causing their injury. If you do business in one of the following 12 states this system applies: ARKANSAS, COLORADO, GEORGIA, IDAHO, KANSAS, MAINE, NEBRASKA, NORTH DAKOTA, OKLAHOMA, TENNESSEE, UTAH and WEST VIRGINIA.



### Law: The 51% Rule

says if the injured party is 51% or less at fault, he/she can recover for the portion of damages for which they are NOT at fault. If you do business in one of the following 21 states this system applies: CONNECTICUT, DELAWARE, HAWAII, ILLINOIS, INDIANA, IOWA, MASSACHUSETTS, MICHIGAN, MINNESOTA, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, OHIO, OREGON, PENNSYLVANIA, SOUTH CAROLINA, TEXAS, VERMONT, WISCONSIN and WYOMING.

### 2nd Stage: Determining Who Is Responsible For Paying The Damage Verdict

**Several Liability** Fourteen states follow the rule of Several Liability, which says that each party is responsible only for their portion of the damages awarded. If you do business in one of the following states this system applies: ALASKA, ARIZONA, ARKANSAS, CONNECTICUT, FLORIDA, GEORGIA, INDIANA, KANSAS, KENTUCKY, MICHIGAN, TENNESSEE, UTAH, VERMONT and WYOMING.

**Joint and Several Liability** Nine states follow the rule of Joint and Several Liability, which says that each liable party is responsible for up to the full amount of the damages awarded. If you do business in one of the following states/districts this system applies: ALABAMA, DELAWARE, MARYLAND, MASSACHUSETTS, NORTH CAROLINA, RHODE ISLAND, SOUTH CAROLINA, VIRGINIA and DISTRICT OF COLUMBIA.

**Modified Joint/Several Liability** Twenty-eight states follow the rule of Modified Joint and Several Liability, which says that each liable party is responsible for his/her own share of the damages awarded, unless they acted in concert with the other defendants which resulted in the injury. If you do business in one of the following states/districts this system applies: CALIFORNIA, COLORADO, HAWAII, IDAHO, ILLINOIS, IOWA, LOUISIANA, MAINE, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, SOUTH DAKOTA, TEXAS, WASHINGTON, WEST VIRGINIA and WISCONSIN.

Lawsuit 101 Summary

Courtesy of The Inflatable Industry Purchasing Group

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