

Fast & Furious Tort Law Changes in Florida: New Negligence Statute of Limitations & Comparative Fault Rule

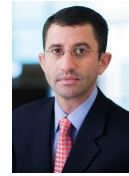
On March 24, 2023, Florida Governor Ron DeSantis signed into law House Bill 837, “Civil Remedies.” This Act moved quickly through the Florida Legislature process, after having been introduced in February of 2023. The Act is focused upon bad faith litigation and attorney’s fee awards, but it also includes two important changes for negligence cases in the State of Florida that all subrogation professionals should keep in mind.

First, the statute of limitations for negligence actions under Fl. Stat. Sec. 95.11 has been shortened from four years to two years. This change in the statute of limitations applies to actions that accrue after the effective date of the act, which is March 24, 2023. This is a major change that all claims adjusters need to take into account in conducting investigations and pursuing recoveries for new losses.

Second, the framework for comparative negligence in Florida under Fl. Stat. Sec. 786.81, which had been one of pure comparative negligence, has been changed to modified comparative negligence. Prior to this change, in Florida, even if the plaintiff was partially at fault, she or he still could recover whatever percentage of fault was applied against the responsible party. Under this change, plaintiffs now can recover only if their share of comparative fault is *not more than 50%*. The recovery amount will be calculated on the basis of the percentage of fault proven against a defendant. As a result, in any case where the plaintiff is now more than 50% at fault, there will be no recovery in a negligence action. This change applies to any causes of action filed after the effective date of the act of March 24, 2023.

It also bears noting that, under the act, the shorter statute of limitations of two years will apply prospectively to claims that occur after the date the act was signed into law, i.e., causes of action accruing after March 24, 2023. On the other hand, the new modified comparative negligence rule will apply to any lawsuits filed after the date of the Act’s enactment on March 24, 2023, irrespective of when the cause of action accrued. This distinction in how the two changes are applied is important to keep in mind for your negotiations with adverse parties.

Subrogation professionals and counsel handling matters in the State of Florida should be mindful of these new changes in negligence actions in Florida and start to evaluate how they will affect pending and future cases. For those who are interested, the full text of the act can be found [here](#).



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