

Current as Of December

2013

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Alabama

Wrongful Death:

Statute of Limitations:

Two Years. [Ala. Code § 6-5-410](#). There is also up to a maximum of six additional months available to appoint an administrator of the estate. [Ala. Code § 6-2-14](#).

Does discovery rule apply?

No. The discovery rule only applies in fraud actions. [Henson v. Celtic Life Ins. Co., 621 So.2d 1268, 1274 \(Ala. 1993\)](#)

Who has the right to bring suit?

Personal representative. [Ala. Code § 6-5-410](#). If the decedent is a minor child, the parents may bring suit. If the parents are deceased or decline to bring suit within six months of the minor's death, the minor's personal representative may bring suit. [Ala. Code § 6-5-391](#).

Personal Injury:

Statute of Limitations:

Two Years. [Ala. Code § 6-2-38\(i\)](#).

Does discovery rule apply?

No. The discovery rule only applies in fraud actions. [Henson v. Celtic Life Ins. Co., 621 So.2d 1268, 1274 \(Ala. 1993\)](#); *see also* Ala. Code 1975 § 6-2-3. Some commentators believe that a failure to warn case may qualify as fraud because the defendant concealed the necessary information from the plaintiff. *See DGB, LLC, et al. v. Michael Hinds et al., 55 So. 3d 218 (Ala. 2010)* for a discussion of discovering fraudulent claims.

Asbestos:

Statute of Limitations:

One Year. [Ala. Code § 6-5-502](#).

Does discovery rule apply?

Yes. Product liability action “must be commenced within one year from the date such personal injury or property damage is or in the exercise of reasonable diligence should have been discovered by the plaintiff or the plaintiff's decedent.” [Ala. Code § 6-2-30\(b\)](#).

Alaska

Wrongful Death:

Statute of Limitations:

Two Years. [Alaska Stat. § 09.55.580](#); [§ 09.10.070](#).

Does discovery rule apply?

Yes. “We hold that the discovery rule does apply to the death act because of the fundamental fairness of the rule and, like the minor tolling rule, because it is consistent with the purposes of the act.” [Hanebuth v. Bell Helicopter Intern.](#), 694 P.2d 143, 146 (Alaska 1984)

Who has the right to bring suit?

Personal representative. [Alaska Stat. § 09.55.580](#)

Personal Injury:

Statute of Limitations:

Two Years. [Alaska Stat. § 09.10.070](#).

Does discovery rule apply?

Yes. “[A] cause of action accrues when a person discovers, or reasonably should have discovered, the existence of all elements essential to the cause of action.” [John's Heating Service v. Lamb](#), 129 P.3d 919, 923 (Alaska 2006)

Arizona

Wrongful Death:

Statute of Limitations:

Two Years, except for wrongful death suits based on medical malpractice, which has three years. [*James v. Phoenix Gen. Hosp., Inc.*, 744 P.2d 695, 699 \(Ariz. 1987\)](#)

Does discovery rule apply?

Yes. “[W]e...apply the discovery rule in wrongful death actions.” [*Anson v. American Motors Corp.*, 155 Ariz. 420, 326 747 P.2d 581, 587 \(Ariz. App., 1987\)](#)

Who has the right to bring suit?

Surviving spouse, child, either surviving parent or guardian, or personal representative of the deceased. [*Ariz. Rev. Stat. § 12-612*](#).

Personal Injury:

Statute of Limitations:

Two Years. [*Ariz. Rev. Stat. § 12-542\(1\)*](#).

Does discovery rule apply?

Yes. “[A] cause of action “accrues” when the plaintiff discovers or by the exercise of reasonable diligence should have discovered that he or she has been injured by a particular defendant's negligent conduct. The cause of action does not accrue until the plaintiff knows or should have known of both the what and who elements of causation” [*Lawhon v. L.B.J. Institutional Supply, Inc.*, 159 Ariz. 179, 183 765 P.2d 1003, 1007 \(Ariz. App., 1988\)](#)

Arkansas

Wrongful Death:

Statute of Limitations:

Three Years. [Ark. Code § 16-62-102](#).

Does discovery rule apply?

Possibly – see below.

Who has the right to bring suit?

Every action shall be brought by and in the name of the personal representative of the deceased person. If there is no personal representative, then the action shall be brought by the heirs at law of the deceased person. [Ark. Code § 16-62-102](#).

Personal Injury:

Statute of Limitations:

Three Years. [Ark. Code § 16-56-105](#); *see also* [Ark. Code § 16-56-103](#).

Does discovery rule apply?

“We hold that in product liability cases, the statute of limitations under § 16-116-103 does not commence running until the plaintiff knew or, by the exercise of reasonable diligence, should have discovered the causal connection between the product and the injuries suffered.” [Martin v. Arthur](#), 339 Ark. 149, 159, 3 S.W.3d 684, 690 (Ark.,1999) In cases of fraudulent concealment, [State v. Diamond Lakes Oil Co.](#), 347 Ark. 618, 66 S.W.3d 613, (Ark.,2002); and in some product liability lawsuits.

California

Wrongful Death:

Statute of Limitations:

Two Years. [Cal. Code Civ. Proc. § 335.1](#).

Does discovery rule apply?

Yes. [Fox v. Ethicon Endo-Surgery, Inc., 35 Cal.4th 797, 110 P.3d 914, \(Cal., 2005\)](#); [Norgart v. Upjohn Co., 21 Cal.4th 383, 405 \(1999\)](#).

Who has the right to bring suit?

The decedent's surviving spouse, domestic partner, children, and issue of deceased children, or, if there is no surviving issue of the decedent, the persons, including the surviving spouse or domestic partner, who would be entitled to the property of the decedent by intestate succession. [Cal. Code Civ. Proc. § 377.60](#)

Personal Injury:

Statute of Limitations:

Two Years. [Cal. Code Civ. Proc. § 335.1 \(2002\)](#).

Does discovery rule apply?

Yes. [Fox v. Ethicon Endo-Surgery, Inc., 35 Cal.4th 797, 110 P.3d 914, \(Cal., 2005\)](#); [Norgart v. Upjohn Co., 21 Cal.4th 383, 405 \(1999\)](#).

Other:

In 1980, California enacted [Cal. Civ. Proc. § 340.2](#) which establishes a separate statute of limitations for asbestos claims. §340.2 reads in pertinent part:

(a) In any civil action for injury or illness based upon exposure to asbestos, the time for the commencement of the action shall be the later of the following:

(1) Within one year after the date the plaintiff first suffered disability.

(2) Within one year after the date the plaintiff either knew, or through the exercise of reasonable diligence should have known, that such disability was caused or contributed to by such exposure.

(b) “Disability” as used in subdivision (a) means the loss of time from work as a result of such exposure which precludes the performance of the employee's regular occupation.

Determining when the statute of limitations begins to run for asbestos claims in California is a two step process. First, you must determine whether the client is “disabled” under Cal. Civ. Proc. §340.2(b). If the client is not disabled as defined by subsection (b), then the statute has not yet begun to run and the client’s claims are not time-barred.

The first step in determining when a plaintiff’s statute of limitations for asbestos claims begins to run is to determine whether the individual is disabled under subsection (b). For an individual to be disabled under subsection (b), “asbestos-related injuries [must have] cause[d] a permanent termination of the plaintiff’s ability to perform his or her job, which actually forces the plaintiff off the job.” [*Duty v. Abex Corp.* \(1989\) 214 Cal.App.3d 742, 750 \[263 Cal.Rptr. 13\]](#)

Subsection (b) is written so narrowly that the following types of individuals can never be considered disabled, and thus the statute of limitations for their asbestos claims will *never begin to run*, and will therefore never be time-barred:

- Individuals who retired from work for reasons unrelated to any asbestos-related illness the person may have.
- An employee who took some time off from work due to an asbestos-related condition, but later returned to work at his or her regular occupation.
- Students, homemakers, and others who have never been employed.
- Anyone who is still working in his or her regular occupation.
- An employee who retires in part due to medical advice regarding his or her asbestos-related illness, but was still medically able to continue working when he or she retired.

If the client is disabled, you must next determine when the client either knew, or should have known that the cause of his or her disability was exposure to asbestos.

COLORADO

Wrongful Death:

Statute of Limitations:

Two Years. [C.R.S.A. § 13-80-102](#)

Does discovery rule apply?

No. [C.R.S.A. § 13-80-108](#)

Who has the right to bring suit?

Spouse, heirs of the deceased, designated beneficiary. If the deceased is an unmarried minor without descendants or an unmarried adult without descendants, then by the father or mother. [C.R.S.A. § 13-21-203](#); [C.R.S.A. § 13-21-201](#)

Personal Injury:

Statute of Limitations:

Two Years. [C.R.S.A. §. § 13-80-102.](#)

Does Discovery Rule Apply?

Yes. [C.R.S.A. § 13-80-108](#)

Connecticut

Wrongful Death:

Statute of Limitations:

Two Years from the date of death, but no later than five years from the act or omission complained of. [C.G.S.A. § 52-555](#)

Does discovery rule apply?

No. [C.G.S.A. § 52-555](#)

Who has the right to bring suit?

Personal representative. [C.G.S.A §52-555](#); [C.G.S.A § 52-599](#);

Personal Injury:

Statute of Limitations:

Two years from the date when the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered, and except that no such action may be brought more than three years from the date of the act or omission complained of. [C.G.S.A. § 52-584](#)

For product liability claims other than asbestos: Within three years from the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered, and except that no such action may be brought more than ten years from the date the defendant last parted with possession or control of the product. [C.G.S.A. § 52-577\(a\)](#)

For asbestos claims: Eighty years from the date of the last exposure to asbestos for personal injury claims, and thirty years from the date of the last exposure to asbestos for property damage claims. [C.G.S.A. § 52-577\(e\)](#)

Does discovery rule apply?

Not past three years. See above.

Delaware

Wrongful Death:

Statute of Limitations:

Two Years. [10 Del. Code § 8107](#).

Does discovery rule apply?

Yes. [In re Asbestos Litigation West Trial Group, 622 A.2d 1090, \(Del. Super., 1992\)](#)

Who has the right to bring suit?

Personal representative. [10 Del. Code § 3707](#).

Personal Injury:

Statute of Limitations:

Two Years. [10 Del. Code. § 8119](#)

Does discovery rule apply?

Yes. [Morton v. Sky Nails, 884 A.2d 480, \(Del.Supr., 2005\)](#)

District of Columbia

Wrongful Death:

Statute of Limitations:

Two Years. [D.C. Code § 16-2702](#). (Amended from one year to two years in 2012.)

Does discovery rule apply?

Probably: “[D]iscovery rule is applied to determine when statute of limitations commences only in cases where relationship between fact of injury and alleged tortious conduct is obscure at time of injury. [Bussineau v. Pres. and Directors of Georgetown College, 518 A.2d 423 \(D.C. App. 1986\)](#)”

Who has the right to bring suit?

Personal representative. [D.C. Code § 16-2701](#).

Personal Injury:

Statute of Limitations:

Three Years. [D.C. Code § 12-301\(8\)](#)

Does discovery rule apply?

Yes. “[W]hen “the relationship between the fact of injury and the alleged tortious conduct [is] obscure,” this court determines when the claim accrues through application of the discovery rule, i.e., the statute of limitations will not run until plaintiffs know or reasonably should have known that they suffered injury due to the defendants' wrongdoing.” [Mullin v. Washington Free Weekly, Inc., 785 A.2d 296 \(D.C. 2001\)](#) quoting [Colbert v. Georgetown University, 641 A.2d 469, 472 \(D.C.1994\) \(en banc\)](#).

Florida

Wrongful Death:

Statute of Limitations:

Two Years. [Fla. Stat. § 95.11](#).

Does discovery rule apply?

No. [Fulton County Adm'r v. Sullivan, 753 So.2d 549 \(Fla.,1999\)](#)

Who has the right to bring suit?

Personal Representative - [Fla. Stat. § 768.20](#).

Personal Injury:

Statute of Limitations:

Four Years. [Fla. Stat. § 95.11](#)

Does discovery rule apply?

Yes. [Peat, Marwick, Mitchell & Co. v. Lane, 565 So.2d 1323 \(Fla.,1990\)](#)

Georgia

Wrongful Death:

Statute of Limitations:

Two Years generally, or four years for loss of consortium. *Id.* [Ga. Code § 9-3-33](#)

Does discovery rule apply?

No. [Miles v. Ashland Chemical Co., 261 Ga. 726, 410 S.E.2d 290, \(Ga., 1991\)](#); Discovery rule does apply to wrongful death claims brought by a minor based upon the death of his parent, when the action is not based upon medical malpractice. [DeKalb Med. Ctr., Inc. v. Hawkins, 655 S.E.2d 823, 824 \(Ga. App. 2007\)](#)

Who has the right to bring suit?

Surviving spouse, followed by other heirs. [Ga. Code § 51-4-2.](#)

Personal Injury:

Statute of Limitations:

Two Years. [Ga. Code § 9-3-33.](#)

Does discovery rule apply?

Yes. [Thomason v. Gold Kist, Inc., 200 Ga.App. 246, 407 S.E.2d 472, \(Ga.App., 1991.\)](#)

Guam

Wrongful Death:

Statute of Limitations:

Two Years for anything except medical malpractice. [7 G.C.A. § 11306](#)

For medical malpractice: One year from discovery of injury, provided that suit is filed within three years of treatment, omission, or operation upon which the action is based. [7 G.C.A. § 11308](#)

Does discovery rule apply?

Yes.

“[T]he statute of limitations will begin to run when the plaintiff suspects or should suspect that his injury was caused by wrongdoing or that someone has done something wrong to him.” [Taitano v. Calvo Fin. Corp., 2008 Guam 12](#), quoting [Gayle v. Hemlani, 2000 Guam 25](#).

Who has the right to bring suit?

Heirs or personal representative. [7 G.C.A. § 12109](#)

Personal Injury:

Statute of Limitations:

Two Years. [7 G.C.A. § 11306](#)

Does discovery rule apply?

Yes. [Gayle v. Hemlani, 2000 Guam 25](#).

Hawaii

Wrongful Death:

Statute of Limitations:

Two Years. [Haw. Rev. Stat. § 657-7.](#)

Does discovery rule apply?

The courts have never ruled specifically as to wrongful death actions, but a strong argument can be made that the discovery rule would apply since it unquestionably applies to personal injury actions (see below) and personal injury actions and wrongful death actions share the same statute.

Who has the right to bring suit?

Heirs or personal representative. [Haw. Rev. Stat. § 663-3.](#)

Personal Injury:

Statute of Limitations:

Two Years. [Haw. Rev. Stat. § 657-7.](#)

Does discovery rule apply?

Yes. [Guillermo v. Hartford Life & Acc. Ins. Co., 986 F.Supp. 1334, \(D.Hawai'i, 1997.\)](#)

Idaho

Wrongful Death:

Statute of Limitations:

Two Years. [Idaho Code § 5-219\(4\) \(2004\)](#).

Does discovery rule apply?

No. [Chapman v. Cardiac Pacemakers, Inc., 105 Idaho 785, 673 P.2d 385, \(Idaho, 1983\)](#)

Who has the right to bring suit?

Heirs or personal representative of adult. [Idaho Code § 5-311](#).

Personal Injury:

Statute of Limitations:

Two Years. [Idaho Code § 5-219\(4\) \(2004\)](#).

Does discovery rule apply?

Yes. [Renner v. Edwards, 93 Idaho 836, 475 P.2d 530, \(Idaho 1969\)](#).

Illinois

Wrongful Death:

Statute of Limitations:

Two Years. [740 Ill. Comp. Stat. 180/2 \(2002\)](#)

Does discovery rule apply?

Yes. [Coleman v. Hinsdale Emergency Medical Corp., 108 Ill.App.3d 525, 529, 64 Ill.Dec. 91, 439 N.E.2d 20 \(1982\)](#)

Who has the right to bring suit?

Personal Representative. [740 Ill. Comp. Stat. § 180/2.](#)

Personal Injury:

Statute of Limitations:

Two Years. [735 Ill. Comp. Stat. 5/13-202 \(2002\)](#)

Does discovery rule apply?

Yes. [Belkow v. Celotex Corp., 722 F. Supp. 1547, 1550 \(N.D. Ill. 1989\)](#)

Indiana

Wrongful Death:

Statute of Limitations:

Two Years. [Ind. Code § 34-23-1-1 \(1998\)](#)

Does discovery rule apply?

No. [Holmes v. ACandS, Inc., 709 N.E.2d 36, \(Ind.App.,1999.\)](#)

Who has the right to bring suit?

Personal Representative. [Ind. Code § 34-23-1-1 \(1998\)](#), unless child, which is defined as unmarried person under 20, or under 23 if in college. Then, parents may file. [Ind. Code § 34-23-2-1.](#)

Personal Injury:

Statute of Limitations:

Two Years. [Ind. Code § 34-11-2-4](#)

Does discovery rule apply?

Yes. [Martin v. Richey, 711 N.E.2d 1273, \(Ind.,1999.\)](#)

Iowa

Wrongful Death:

Statute of Limitations:

Two Years. [I.C.A. § 614.1\(2\) \(1999\)](#)

Does discovery rule apply?

Yes. [Franzen v. Deere & Co., 377 N.W. 2d 660 \(Iowa 1985\)](#)

Who has the right to bring suit?

Personal Representative and heirs. [Iowa Code § 611.22 \(1999\)](#)

Personal Injury:

Statute of Limitations:

Two Years. [I.C.A. § 614.1\(2\) \(1999\)](#)

Does discovery rule apply?

Yes. [Franzen v. Deere & Co., 377 N.W. 2d 660 \(Iowa 1985\)](#)

Kansas

Wrongful Death:

Statute of Limitations:

Two Years. [K.S.A. 60-513\(a\)\(5\)\(1994\)](#)

Does discovery rule apply?

Yes, but no action may be brought more than ten years after the negligent act occurred. [K.S.A. 60-513\(b\) \(1994\)](#)

Who has the right to bring suit?

Any heirs at law. [Kan. Stat. § 60-1902](#)

Personal Injury:

Statute of Limitations:

Two Years. [K.S.A. 60-513\(a\)\(5\)\(1994\)](#)

Does discovery rule apply?

Yes, but no action may be brought more than ten years after the negligent act occurred. [K.S.A. 60-513\(b\) \(1994\)](#)

Kentucky

Wrongful Death:

Statute of Limitations:

Within one year after the personal representative is appointed, provided that date is no longer than two years after the date of death. [KRS §413.180](#)

Does discovery rule apply?

No, unless there was fraudulent concealment of the cause of death. [Gray v. Commonwealth, Ky.App., 973 S.W.2d 61, 62-63 \(1997\)](#)

Who has the right to bring suit?

A personal representative. [Ky. Rev. Stat. Ann. §413.180](#)

Personal Injury:

Statute of Limitations:

One Year. [KRS § 413.140](#)

If the case involves injuries arising out of the use of a motor vehicle, it is two years from the later of either the date of the accident or the date of the last PIP payment. [KRS § 304.39-230\(6\)](#).

Does discovery rule apply?

Yes - [Hazel v. General Motors Corp., 863 F.Supp. 435, \(W.D.Ky.,1994.\)](#)

Louisiana

Wrongful Death:

Statute:

One Year. [LSA-C.C. Art. 2315.2](#).

Does discovery rule apply?

No. [LSA-C.C. Art. 2315.2](#)

Who has the right to bring suit?

Spouse and/or child or children; if none, by surviving parents or parent; if none, by surviving brothers and sisters. [LSA-C.C. Art. 2315.2](#)

Personal Injury:

Statute of Limitations:

One Year. [LSA-C.C. Art. 3492](#).

Does discovery rule apply?

Yes. [Beth Israel v. Bartley, Inc., 579 So.2d 1066, \(4th Cir. 1991\)](#)

Maine

Wrongful Death:

Statute:

Two Years. [18-A M.R.S.A. § 2-804 \(b\)](#)

Does discovery rule apply?

No. [Butler v. Killoran, 714 A.2d 129, \(Me.,1998.\)](#)

Who has the right to bring suit?

Personal representative. [18-A M.R.S.A. § 2-804 \(b\)](#)

Personal Injury:

Statute of Limitations:

Six Years. [14 M.R.S.A. § 752](#)

Does discovery rule apply?

Courts will look to the following four factors to determine whether the discovery rule should apply. (1) the nature of the relationship between the plaintiff and the defendant; (2) the magnitude of the loss or harm; (3) the plaintiff's inability to discover that he had been wronged within the applicable limitations period; and, to a lesser degree, (4) the existence of corroborating evidence. [McAfee v. Cole, 637 A.2d 463, \(Me.,1994\).](#)

Maryland

Wrongful Death:

Statute of Limitations:

[MD Code, Cts. & Jud. Proc. § 3-904](#)

(g)(1) Except as provided in paragraph (2) of this subsection, an action under this subtitle shall be filed within three years after the death of the injured person.

(ii) If an occupational disease was a cause of a person's death, an action shall be filed:

1. Within 10 years of the time of death; or
2. Within 3 years of the date when the cause of death was discovered, whichever is the shorter.

Does discovery rule apply?

See above with respect to occupation diseases. Otherwise, only in case of fraud. [Geisz v. Greater Baltimore Medical Center, 313 Md. 301, 545 A.2d 658, Md.,1988.](#)

Who has the right to bring suit?

Spouse, parent, child of deceased, other heirs. [MD Code, Cts. & Jud. Proc. § 3-904](#)

Personal Injury:

Statute of Limitations:

Three Years. [MD Code, Cts. & Jud. Proc. § 5-101](#)

Does discovery rule apply?

Yes - [Murphy v. Merzbacher, 346 Md. 525, 697 A.2d 861, \(Md.,1997\)](#)

Massachusetts

Wrongful Death:

Statute of Limitations:

Three years. [M.G.L.A. 229 § 2](#)

Does discovery rule apply?

Yes. Three years. M.G.L.A. 229 § 2; [Taygeta Corp. v. Varian Assocs., Inc., 436 Mass. 217, 763 N.E.2d 1053 \(2002\)](#)

Who has the right to bring suit?

Personal representative. [M.G.L.A. 229 § 2](#)

Personal Injury:

Statute of Limitations:

Three Years. [M.G.L.A. 260 § 2A](#)

Does discovery rule apply?

Yes. [Epstein v. C.R. Bard, Inc., 460 F.3d 183, \(1st Cir. 2006\)](#)

Michigan

Wrongful Death:

Statute of Limitations:

Three Years. [Mich. Comp. Laws § 600.5805\(10\)](#).

Does discovery rule apply?

No. [Trentadue v. Buckler Automatic Lawn Sprinkler Co, 479 Mich. 378; 738 NW2d 664 \(2007\)](#)

Who has the right to bring suit?

Personal representative. [Mich. Comp. Laws § 600.2922](#).

Personal Injury:

Statute of Limitations:

Three Years. [Mich. Comp. Laws § 600.5805\(10\)](#).

Does discovery rule apply?

Yes. [Moll v. Abbott Laboratories, 444 Mich. 1, 506 N.W.2d 816, \(Mich.,1993.\)](#)

Minnesota

Wrongful Death:

Statute of Limitations:

Three Years. [M.S.A. § 573.02](#)

Does discovery rule apply?

No. [DeCosse v. Armstrong Cork Co., 319 N.W.2d 45, \(Minn. 1982\)](#)

Who has the right to bring suit?

A trustee appointed by the court for the benefit of the spouse and next of kin. [M.S.A. § 573.02](#)

Personal Injury:

Statute of Limitations:

Six Years. [Minn. Stat. § 541.05 subd. 5 \(2012\)](#)

Does discovery rule apply?

Only in continuing torts and in cases of fraudulent concealment.
[Haberle v. Buchwald, 480 N.W.2d 351, \(Minn. App., 1992.\)](#)

Mississippi

Wrongful Death:

Statute of Limitations:

Three Years. [Miss. Code Ann. § 15-1-49](#)

Does discovery rule apply?

Yes. [Caves v. Yarbrough, 991 So. 2d 142, 144 \(Miss. 2008\)](#)

Who has the right to bring suit?

Personal representative or by any or all of persons entitled to benefit of recovery. “The list of persons in this section who may bring a wrongful death action is exclusive...” [Miss. Code Ann. § 11-7-13](#), as amended

Personal Injury:

Statute of Limitations:

Three Years. [Miss. Code Ann. § 15-1-49](#)

Does discovery rule apply?

Yes. [Miss. Code Ann. § 15-1-49](#)

Missouri

Wrongful Death:

Statute of Limitations:

Three Years. [V.A.M.S. 537.100](#)

Does discovery rule apply?

In some instances. [Howell v. Murphy, 844 S.W.2d 42 \(Mo.App. W.D.,1992\)](#)

Who has the right to bring suit?

Spouse or minor children, natural or adopted, of the decedent, either jointly or severally, etc.; in some instances by father and mother; in still other instances, by personal representative. [V.A.M.S. 537.080](#)

Personal Injury:

Statute of Limitations:

Five Years. [V.A.M.S. 516.120.](#)

Does discovery rule apply?

Yes. [V.A.M.S. 516.100](#)

Montana

Wrongful Death:

Statute of Limitations:

Three Years. [MCA 27-2-204](#)

Does discovery rule apply?

No. [Carroll v. W.R. Grace & Co., 252 Mont. 485, 830 P.2d 1253, \(Mont., 1992.\)](#)

Who has the right to bring suit?

Personal Representative. [Mont. Code § 27-1-513.](#)

Personal Injury:

Statute of Limitations:

Three Years. [MCA 27-2-204](#)

Does discovery rule apply?

Yes. [MCA 27-2-102](#)

Nebraska

Wrongful Death:

Statute of Limitations:

Two Years. [Neb. Rev. St. § 30-810](#)

Does discovery rule apply?

If cause of death is fraudulently concealed. [Muller v. Thaut, 230 Neb. 244, 430 N.W.2d 884, \(Neb.,1988.\)](#)

Who has the right to bring suit?

Personal Representative. [Neb. Rev. St. § 30-810](#)

Personal Injury:

Statute of Limitations:

For product liability lawsuits, four years, with a ten year statute of repose. [Neb.Rev.St. § 25-224](#)

For asbestos lawsuits, four years from the date the plaintiff was diagnosed with asbestos injuries, or should have known his injuries were caused by asbestos. [Neb.Rev.St. § 25-224](#)

Nevada

Wrongful Death:

Statute of Limitations:

Two Years. [N.R.S. 11.190\(4\)\(e\)](#)

Does discovery rule apply?

Yes. [Pope v. Gray, 104 Nev. 358, 760 P.2d 763 \(Nev.,1988\)](#)

Who has the right to bring suit?

Heirs and Personal Representative. [N.R.S. § 41.085.](#)

Personal Injury:

Statute of Limitations:

Two Years. [N.R.S. 11.190\(4\)\(e\)](#)

Does discovery rule apply?

Yes. [Nevada State Bank v. Jamison Partnership, 106 Nev. 792, 801 P.2d 1377 \(1990\)](#)

New Hampshire

Wrongful Death:

Statute of Limitations:

Three Years. [N.H. Rev. Stat. § 508:4](#).

Does discovery rule apply?

Yes. [N.H. Rev. Stat. § 508:4](#).

Who has the right to bring suit?

Personal Representative. [N.H. Rev. Stat. § 556:12](#)

Personal Injury:

Statute of Limitations:

Three Years. [N.H. Rev. Stat. § 508:4](#).

Does discovery rule apply?

Yes. [N.H. Rev. Stat. § 508:4](#).

New Jersey

Wrongful Death:

Statute of Limitations:

Two Years, unless murder, in which case there is no limitations period.
[N.J.S.A. 2A:31-3](#)

Does discovery rule apply?

In limited cases. [Negron v. Llarena, 156 N.J. 296 \(1998\)](#),

Who has the right to bring suit?

Every action commenced under this chapter shall be brought in the name of an administrator ad prosequendum of the decedent for whose death damages are sought, except where decedent dies testate and his will is probated, in which event the executor named in the will and qualifying, or the administrator with the will annexed, as the case may be, shall bring the action. [N.J.S.A. 2A:31-2](#)

Personal Injury:

Statute of Limitations:

Two Years - [N.J.S.A. 2A:14-2](#)

Does discovery rule apply?

Yes. [Baird v. American Med. Optics, 155 N.J. 54, 713 A.2d 1019 \(1998\)](#)

New Mexico

Wrongful Death:

Statute of Limitations:

Three Years. [N.M. Stat. § 41-2-2.](#)

Does discovery rule apply?

No. [N.M. Stat. § 41-2-2. *Clark v. Lovelace Health Systems, Inc.* 136 N.M. 411, 99 P.3d 232 \(N.M.App.,2004.\)](#)

Who has the right to bring suit?

Personal Representative. [N.M. Stat. § 41-2-3.](#)

Personal Injury:

Statute of Limitations:

Three Years. [N.M. Stat. § 37-1-8](#)

Does discovery rule apply?

In some instances. [Martinez v. Showa Denko, K.K.](#) 125 N.M. 615, 964 P.2d 176, (N.M.App.,1998.)

New York

Wrongful Death:

Statute of Limitations:

Two Years. [McKinney's EPTL § 5-4.1](#)

Does discovery rule apply?

No. [Morano v. St. Francis Hospital, 100 Misc.2d 621, 420 N.Y.S.2d 92, \(N.Y.Sup., 1979\)](#)

Who has the right to bring suit?

Personal Representative. [McKinney's EPTL § 5-4.1](#)

Personal Injury:

Statute of Limitations:

Three Years. [McKinney's CPLR § 214](#)

Does discovery rule apply?

Three years from the date of discovery. [McKinney's CPLR § 214-c](#)

North Carolina

Wrongful Death:

Statute of Limitations:

Two Years. [N.C.G.S.A. § 1-53](#)

Does discovery rule apply?

No. [Johnson v. Podger, 43 N.C.App. 20, 257 S.E.2d 684, \(N.C.App., 1979.\)](#)

Who has the right to bring suit?

Personal Representative. [N.C. Gen. Stat. § 28A-18-1.](#)

Personal Injury:

Statute of Limitations:

Three Years. [N.C.G.S.A. § 1-52](#)

Does discovery rule apply?

Yes, but no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action. [N.C.G.S.A. § 1-52\(16\)](#)

North Dakota

Wrongful Death:

Statute of Limitations

Two Years. [NDCC, 28-01-18](#)

Does discovery rule apply?

No. [Krueger v. St. Joseph's Hospital, 305 N.W.2d 18, \(N.D. 1981\)](#)

Who has the right to bring suit?

Spouse; if none, by children; if none, by mother or father; if none, by personal representative. If party so entitled to sue refuses or neglects to commence action within 30 days after demand from person next in order, the latter may sue. [N.D. Cent. Code § 32-21-03](#).

Personal Injury:

Statute of Limitations

Six years. [NDCC, 28-01-16](#)

Does discovery rule apply?

Yes. [Kuntz v. Muehler, 603 N.W.2d 43, \(N.D.,1999\)](#)

Ohio

Wrongful Death:

Statute of Limitations:

Two years. [Ohio Rev. Code § 2125.02](#).

Does discovery rule apply?

Yes. [Collins v. Sotka, 81 Ohio St.3d 506, 692 N.E.2d 581, \(Ohio, 1998.\)](#)

Who has the right to bring suit?

Personal Representative. [Ohio Rev. Code § 2125.02](#).

Personal Injury:

Statute of Limitations & Discovery Rule: See below.

2305.10 Product liability, bodily injury or injury to personal property; when certain causes of action arise

(A) Except as provided in division (C) or (E) of this section, an action based on a product liability claim and an action for bodily injury or injuring personal property shall be brought within two years after the cause of action accrues. Except as provided in divisions (B)(1), (2), (3), (4), and (5) of this section, a cause of action accrues under this division when the injury or loss to person or property occurs.

(B)(1) For purposes of division (A) of this section, a cause of action for bodily injury that is not described in division (B)(2), (3), (4), or (5) of this section and that is caused by exposure to hazardous or toxic chemicals, ethical drugs, or ethical medical devices accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(2) For purposes of division (A) of this section, a cause of action for bodily injury caused by exposure to chromium in any of its chemical forms accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(3) For purposes of division (A) of this section, a cause of action for bodily injury incurred by a veteran through exposure to chemical defoliants or herbicides or other causative agents, including agent orange, accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(4) For purposes of division (A) of this section, a cause of action for bodily injury caused by exposure to diethylstilbestrol or other nonsteroidal synthetic estrogens, including exposure before birth, accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(5) For purposes of division (A) of this section, a cause of action for bodily injury caused by exposure to asbestos accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(C)(1) Except as otherwise provided in divisions (C)(2), (3), (4), (5), (6), and (7) of this section or in section 2305.19 of the Revised Code, no cause of action based on a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

(2) Division (C)(1) of this section does not apply if the manufacturer or supplier of a product engaged in fraud in regard to information about the product and the fraud contributed to the harm that is alleged in a product liability claim involving that product.

(3) Division (C)(1) of this section does not bar an action based on a product liability claim against a manufacturer or supplier of a product who made an express, written warranty as to the safety of the product that was for a period longer than ten years and that, at the time of the accrual of the cause of action, has not expired in accordance with the terms of that warranty.

(4) If the cause of action relative to a product liability claim accrues during the ten-year period described in division (C)(1) of this section but less than two

years prior to the expiration of that period, an action based on the product liability claim may be commenced within two years after the cause of action accrues.

(5) If a cause of action relative to a product liability claim accrues during the ten-year period described in division (C)(1) of this section and the claimant cannot commence an action during that period due to a disability described in section 2305.16 of the Revised Code, an action based on the product liability claim may be commenced within two years after the disability is removed.

(6) Division (C)(1) of this section does not bar an action for bodily injury caused by exposure to asbestos if the cause of action that is the basis of the action accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(7)(a) Division (C)(1) of this section does not bar an action based on a product liability claim against a manufacturer or supplier of a product if all of the following apply:

(i) The action is for bodily injury.

(ii) The product involved is a substance or device described in division (B)(1), (2), (3), or (4) of this section.

(iii) The bodily injury results from exposure to the product during the ten-year period described in division (C)(1) of this section.

(b) If division (C)(7)(a) of this section applies regarding an action, the cause of action accrues upon the date on which the claimant is informed by competent medical authority that the bodily injury was related to the exposure to the product, or upon the date on which by the exercise of reasonable diligence the claimant should have known that the bodily injury was related to the exposure to the product, whichever date occurs first. The action based on the product liability claim shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of action accrues.

(D) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim.

(E) An action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, as defined in section 2305.111 of the Revised Code, shall be brought as provided in division (C) of that section.

(F) As used in this section:

(1) “Agent orange,” “causative agent,” and “veteran” have the same meanings as in section 5903.21 of the Revised Code.

(2) “Ethical drug,” “ethical medical device,” “manufacturer,” “product,” “product liability claim,” and “supplier” have the same meanings as in section 2307.71 of the Revised Code.

(3) “Harm” means injury, death, or loss to person or property.

(G) This section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after April 7, 2005, in which this section is relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to April 7, 2005.

Oklahoma

Wrongful Death:

Statute of Limitations:

Two Years. [Okla. Stat. tit. 12 § 1053.](#)

Does discovery rule apply?

Yes. [Samuel Roberts Noble Found., Inc. v. Vick, 840 P.2d 619 \(Okla. 1992\)](#)

Who has the right to bring suit?

Widow, next of kin, or personal representative. [Okla. Stat. tit. 12 § 1053](#)

Personal Injury:

Statute of Limitations:

Two Years - [12 Okl.St. Ann. § 95](#)

Does discovery rule apply:

Yes. [Williams v. Borden, Inc., 637 F.2d 731 \(10th Cir. 1980\)](#)

Oregon

Wrongful Death:

Statute of Limitations:

Three Years. [Or. Rev. Stat. § 30.020](#).

Does discovery rule apply?

No. [Eldridge v. Eastmoreland General Hospital, 307 Or. 500, 769 P.2d 775 \(1989\)](#)

Who has the right to bring suit?

Personal representative. [Or. Rev. Stat. § 30.020](#).

Personal Injury:

Statute of Limitations:

Two Years. [O.R.S. § 12.110](#)

Does discovery rule apply?

Yes. In 2003, the legislature enacted HB 2080, which, among other things, established that the statute of limitations for a product liability civil action for personal injury or property damage begins to run when the plaintiff first discovers or, in the exercise of reasonable care, should have discovered that the injury or other damage. [Fox v. Collins, 162 P.3d 998, 1000 \(Or. App. 2007\)](#)

Pennsylvania

Wrongful Death:

Statute of Limitations:

Two Years. [42 Pa.C.S.A. § 5524](#)

Does discovery rule apply?

No. [DaimlerChrysler Corp. v. Com., 885 A.2d 117, \(Pa. Cmwlth., 2005\)](#)

Who has the right to bring suit?

Personal representative. If not brought by personal representative within six months of death, may be brought by representative of any person entitled to damages. [Pa. Stat. Ann. tit. 42](#)

Personal Injury:

Statute of Limitations

Two Years. [42 Pa. Cons. Stat. Ann. § 5524](#)

Does discovery rule apply?

Yes. [Fine v. Checcio, 582 Pa. 253, 870 A.2d 850, \(Pa., 2005.\)](#)

Puerto Rico

Wrongful Death:

Statute of Limitations:

One Year. 31 L.P.R.A. § 5298.

Does discovery rule apply?

Yes. 31 L.P.R.A. § 5298

Who has the right to bring suit?

Personal representative. Father or mother if minor child. Guardian for death of ward. Source unknown.

Personal Injury:

Statute of Limitations:

One Year. 31 L.P.R.A. § 5298.

Does discovery rule apply?

Yes. 31 L.P.R.A. § 5298

Rhode Island

Wrongful Death:

Statute of Limitations:

Three Years. [R.I. Gen. Laws § 10-7-2.](#)

Does discovery rule apply?

Yes. [R.I. Gen. Laws § 10-7-2.](#)

Who has the right to bring suit?

Personal representative. If none, or if there is one and he fails to bring an action within 6 months after death, may be brought in names of all beneficiaries, either by all or by part. [R.I. Gen. Laws § 10-7-3.](#)

Personal Injury:

Statute of Limitations:

Three Years. [R.I. Gen. Laws § 9-1-14](#)

Does discovery rule apply?

Yes. [Wilkinson v. Harrington, 104 R.I. 224, 243 A.2d 745, \(R.I. 1968.\)](#)

South Carolina

Wrongful Death:

Statute of Limitations:

Three Years. [S.C. Code § 15-3-530](#).

Does discovery rule apply?

“Equitable tolling may be applied where it is justified under all the circumstances. We agree, however, that equitable tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use.” [Hooper v. Ebenezer Sr. Services and Rehab. Ctr., 687 S.E.2d 29, 33 \(S.C. 2009\)](#)

Who has the right to bring suit?

Personal representative. [S.C. Code § 15-51-20](#).

Personal Injury:

Statute of Limitations:

Three Years. [S.C. Code § 15-3-530](#).

Does discovery rule apply?

Yes. [Turner v. Milliman, 708 S.E.2d 766 \(S.C. 2011\)](#)

South Dakota

Wrongful Death:

Statute of Limitations:

Three Years. [SDCL § 21-5-3](#).

Does discovery rule apply?

No. [Peterson, ex rel. Peterson v. Burns, 635 N.W.2d 556, \(S.D.,2001.\)](#)

Who has the right to bring suit?

Personal representative. [S.D. Codified Laws § 21-5-5](#).

Personal Injury:

Statute of Limitations:

Three Years. [SDCL § 15-2-14](#)

Product Liability: Three years. [SDCL § 15-2-12.2](#)

Does discovery rule apply?

No. [Alberts v. Giebink, 299 N.W.2d 454, \(S.D., 1980.\)](#)

Other:

A suit isn't "commenced" in South Dakota until the summons is either served on the defendant, or served on the sheriff with the intention that it be served. Merely filing suit does not protect the statute of limitations. [Sieg v. Karnes, 693 F.2d 803, C.A.S.D.,1982.](#)

Tennessee

Wrongful Death:

Statute of Limitations:

One Year. [T. C. A. § 28-3-104](#)

Does discovery rule apply?

Yes. [Hathaway v. Middle Tennessee Anesthesiology, P.C., 724 S.W.2d 355, \(Tenn.App.,1986.\)](#)

Who has the right to bring suit?

Surviving spouse, next of kin, or personal representative. [Tenn. Code § 20-5-106.](#)

Personal Injury:

Statute of Limitations:

One Year. [T. C. A. § 28-3-104](#)

Does discovery rule apply?

Yes. [Hathaway v. Middle Tennessee Anesthesiology, P.C., 724 S.W.2d 355, \(Tenn.App.,1986.\)](#)

Texas

Wrongful Death:

Statute of Limitations:

Two Years. [Tex. Civ. Prac. & Rem. § 16.003.](#)

Does discovery rule apply?

No. [Moreno v. Sterling Drug, Inc., 787 S.W.2d 348 \(Tex.,1990.\)](#)

Who has the right to bring suit?

All persons entitled to damages; if not brought within 3 calendar months, personal representative. [Tex. Civ. Prac. & Rem. § 71.004.](#)

Personal Injury:

Statute of Limitations:

Two Years. [Tex. Civ. Prac. & Rem. § 16.003.](#)

Does discovery rule apply?

Only in cases where the injury was inherently undiscoverable.
[Computer Associates Intern., Inc. v. Altai, Inc., 918 S.W.2d 453, \(Tex.,1996.\)](#)

Utah

Wrongful Death:

Statute of Limitations:

Two Years. [U.C.A. 1953 § 78B-2-304.](#)

Does discovery rule apply?

Very limited. [Myers v. McDonald, 635 P.2d 84, \(Utah, 1981.\)](#)

Who has the right to bring suit?

Heirs or personal representative. [U.C.A. 1953 § 78B-3-106.](#)

Personal Injury:

Statute of Limitations:

Four Years. [U.C.A. 1953 § 78B-2-307](#)

Does discovery rule apply?

Yes. [McHenry v. Utah Valley Hosp., a Div. of Intermountain Health Care, Inc., 724 F.Supp. 835 \(D.Utah,1989.\)](#)

Vermont

Wrongful Death

Statute of Limitations:

Two Years. [14 V.S.A. § 1492](#).

Does discovery rule apply?

Yes. [14 V.S.A. § 1492](#)

Who has the right to bring suit?

Personal representative. [14 V.S.A. § 1492](#)

Personal Injury:

Statute of Limitations:

Three Years. [12 V.S.A. § 512](#)

Does discovery rule apply?

Yes. [12 V.S.A. § 512](#)

Virgin Islands

Wrongful Death:

Statute of Limitations:

Not specified in statute, but courts hold it to be two years. *Hatchette v. West Indian Co., Ltd.*, 17 V.I. 549, 1980 U.S. Dist. LEXIS 8945 (1980).

Does discovery rule apply?

No. *Richardson ex rel. Felix v. Knud Hansen Mem. Hosp.*, 744 F.2d 1007, 1984 U.S. App. LEXIS 18132 (3d Cir. 1984).

Who has the right to bring suit?

Personal representative. 5 V.I.C § 76.

Personal Injury:

Statute of Limitations:

Two Years. 5 V.I.C. § 31

Does discovery rule apply?

Yes. *Joseph v. Hess Oil*, 867 F.2d 179, (3rd Cir. 1989)

Virginia

Wrongful Death:

Statute of Limitations:

Two Years. [Va. Code Ann. § 8.01-244](#).

Does discovery rule apply?

No. [Va. Code Ann. § 8.01-244](#).

Who has the right to bring suit?

Personal representative. [Va. Code Ann. § 8.01-50](#).

Personal Injury:

Statute of Limitations:

Two Years. [Va. Code Ann. § 8.01-243](#)

Does discovery rule apply?

Depends on the cause of action. Yes for asbestos injury. [Va. Code Ann. § 8.01-249](#)

Washington

Wrongful Death:

Statute of Limitations

Three Years. [RCWA § 4.16.080](#).

Does discovery rule apply?

Yes. [White v. Johns-Manville Corp., 103 Wash.2d 344, 693 P.2d 687, \(Wash.,1985.\)](#)

Who has the right to bring suit?

Personal representative. [RCWA § 4.20.010](#).

Personal Injury:

Statute of Limitations:

Three Years. [RCWA 4.16.080](#)

Does discovery rule apply?

Yes. [Easter v. American West Financial, 381 F.3d 948 \(9th Cir, 2004\)](#)

West Virginia

Wrongful Death:

Statute of Limitations:

Two Years. [W. Va. Code, § 55-7-6](#)

Does discovery rule apply?

Yes. [Bradshaw v. Soulsby, 210 W.Va. 682, 558 S.E.2d 681, \(W.Va.,2001.\)](#)

Who has the right to bring suit?

Personal representative. [W. Va. Code Ann. § 55-7-6.](#)

Personal Injury:

Statute of Limitations:

Two Years. [W. Va. Code §55-2-12.](#)

Does discovery rule apply?

Yes. [Gaither v. City Hospital, Inc., 199 W.Va. 706, 487 S.E.2d 901, \(W.Va.1997\).](#)

Wisconsin

Wrongful Death:

Statute of Limitations:

Three Years. [Wis. Stat. § 893.54.](#)

Does discovery rule apply?

Yes. [Hansen v. A.H. Robins, Inc., 113 Wis.2d 550, 335 N.W.2d 578 \(1983\)](#)

Who has the right to bring suit?

Personal representative or person entitled to amount recovered. [Wis. Stat. § 895.04.](#)

Personal Injury:

Statute of Limitations:

Three Years. [Wis. Stat. § 893.54.](#)

Does discovery rule apply?

Yes. [Hansen v. A.H. Robins, Inc., 113 Wis.2d 550, 335 N.W.2d 578 \(1983\)](#)

Wyoming

Wrongful Death:

Statute of Limitations:

Two Years. [Wyo. Stat. § 1-38-102.](#)

Does discovery rule apply?

No. [Robinson v. Pacificorp, 10 P.3d 1133, \(Wyo.,2000.\)](#)

Who has the right to bring suit?

Personal representative. [Wyo. Stat. § 1-38-102.](#)

Personal Injury:

Statute of Limitations:

Four Years. [Wyo. Stat. § 1-3-105](#)

Does discovery rule apply?

Yes. [James v. Montoya, 963 P.2d 993, \(Wyo.,1998.\)](#)