

Glossary of Court, Tort, & Lawsuit Reform Terms

Collateral Source - Collateral sources are third party sources of compensation for torts suffered by a plaintiff. Collateral sources include, but are not limited to: insurance, workers compensations, social security, disability, unemployment compensation, Medicare or Medicaid.

Compensatory Damages - Monetary awards intended to make the plaintiff as close to "whole" as possible for the loss or harm the plaintiff has suffered.

Economic Damages - monetary awards intended to compensate the plaintiff for objective quantifiable losses such as property loss, (legitimate, not "Phantom") medical expenses, lost wages, or lost or impaired future earnings capacity

Non-Economic Damages - monetary awards intended to compensate the plaintiff for "pain and suffering," emotional distress, loss of enjoyment of life, loss of consortium (companionship, support), and other subjective or non-financial harms; often arbitrary and controversial

Jury Shopping - the attempt by a lawyer to have a case heard in a forum or specific geographic location in which the client hopes for a favorable outcome

Joint & Several Liability - Joint and several liability is a theory of recovery that permits the plaintiff to recovery damages from multiple defendants collectively, or from each defendant individually. For example: if a plaintiff sues three defendants, two of whom are 95% responsible for the plaintiffs injuries, but are bankrupt, joint and several liability permits the plaintiff to recover 100% of the damages from the solvent defendant who only bears 5% of the responsibility. This is also referred to as the "search for the deep pocket," which plagues commercial vehicle operators.

Medical Malpractice - Medical malpractice is misconduct by a physician, usually negligence.

Product Liability - Product Liability refers to the legal liability of product manufacturers and sellers to compensate product buyers and users for damages or injuries suffered due to goods purchased.

Punitive Damages - Punitive damages are monetary awards intended to punish the defendant's egregious wrongdoing - rather than mere negligence - to deter future wrongdoing by the defendant and to serve as a warning to others not to engage in the same practice. However, in South Carolina these damages have morphed into yet another, third, set of "damages" and are sought in practically every commercial vehicle-related lawsuit.

Statute of Repose - A statute of repose is a window of time after which party is no longer responsible for a previous action. Statutes of repose are often applied to products or actions by professionals.

Tort - A tort is a private or civil wrong for an injury, other than a breach of contract, for which a court will provide a remedy in the form of damages.

Accidents - An accident is when a mistake occurs by an at-fault party.

Abuse - Abuse is the misuse of something.

Civil Lawsuits - Civil lawsuits happen when there is a disagreement between two parties. Civil lawsuits are used for resolution.