



Modified Comparative Negligence

FJRI supports legislation to modernize the standards for apportioning fault in negligence cases, and restore fairness and personal responsibility to Florida's civil justice system.

Issue Background

There are several doctrines that determine how to apportion fault for injuries caused to a plaintiff by multiple parties. These can include:

- **Contributory Negligence:** A plaintiff whose own negligence contributed to their injuries may not recover damages from another contributing party as long as the plaintiff was at least 1% at fault.
- **Pure Comparative Negligence:** A plaintiff whose own negligence contributed to his or her injury is not barred from recovery of the proportion of fault attributable to a negligent person or party who contributed to the plaintiff's injury, regardless of the plaintiff's percentage of fault. For example, if the plaintiff is 80% at fault for causing his or her own injury, the plaintiff may still recover the remaining 20% from the defendant or defendants that are also found at fault for the plaintiff's damages.
- **Modified Comparative Negligence:** A plaintiff whose own negligence contributed to their injuries may recover the remaining damages regardless of the plaintiff's fault. For example, a plaintiff 90% at fault could still recover the remaining 10% of damages from the defendant(s) also found at fault.

Over the years, Florida law has changed several times. Today, Florida adheres to the doctrine of comparative negligence.

The Problem

Due to a complex web of court rulings and legal theories, plaintiffs who are substantially at fault for their own injuries are still entitled to recover substantial damages from other parties to a lawsuit, even if those other parties were minimally at fault. This structure incentivizes plaintiffs to file lawsuits against any and every possible defendant, especially those with deep pockets, and lets plaintiffs off the hook for their own negligent conduct.

The Solution

FJRI supports legislation to state that in a negligence action, a party who is more than 50 percent at fault for their own injuries may not recover damages.