

# Thomas J. Ueberschaer, P.A.

## Injury & Disability Attorneys



IF YOU NEED OUR SERVICES, PLEASE  
CONTACT US AT...  
800.435.8778 OR 850.434.8778

Winter 2011

## What are the Statutes of Limitations in FL Personal Injury Cases?

When someone is seriously injured by the negligence of another, the laws of Florida provide for recovery. What the laws give, they also take away. Statutes of Limitations in Florida set forth the amount of time you have to file a legal claim for damages from an accident or negligent event.

For routine negligence cases, including car accident claims against other drivers in Florida, a general 4 year statute of limitations applies. Beyond that, most people with Florida car insurance have an additional year after that for a total of 5 years from the accident to file a claim against your own insurance policy for uninsured motorist (UM) benefits.

If your claim is against the State of Florida or an employee or most subdivisions of the state, you are required to file a written claim to the appropriate agency and the Department of Insurance, usually within three years after the claim accrues. After the written claims process is finished, a lawsuit can be filed. Most claims against the state or its agencies for damages for a negligent or wrongful act or omission must be filed within four years after the claim accrues.

Medical malpractice claims have their own complex pre-suit requirements. Most claims for medical negligence must be filed within two

years from the time the incident giving rise to the action occurred. This time limit can be extended further if it takes some time to discover the malpractice. The time to file a claim may also be further



extended for minors and in other specific situations.

Most defective product claims have a four year statute of limitation that can be extended further to twelve years or even twenty years in some cases.

Wrongful death claims usually must be brought within two years, but other exceptions may apply as well. Knowing exactly how long you have to file a claim for damages is often a very complex science. Consulting with a knowledgeable attorney is always advised to make sure your right to recovery is not forfeited by waiting too long.

## Florida State Sovereign Immunity Limits

Effective October 1, 2011, the sovereign immunity limits in Florida have been raised to \$200,000 per person and \$300,000 per incident. For the past thirty years, Florida's immunity statute had been capped at \$100,000 per person and \$200,000 per incident. This increase in recovery will provide a great benefit to individuals who have been injured and to families who have lost loved ones due to governmental negligence. The immunity limits are codified in Florida Statutes section 768.28.

Sovereign immunity is the law that allows State of Florida governmental entities/ agencies to limit their exposure to injuries or damages and even

death caused by a state entity/ agency's negligence.

While the increase in these caps is a step in the right direction it is still woefully insufficient to handle significant losses. In cases involving significant injury or death, the value of proper compensation often exceeds even the new state limitations.

One remedy to exceeding these caps is the cumbersome and politically charged filing of a "claims bill" that requires debate and passage through the state legislature and is not vetoed by the Governor. If you or a friend or family member have been injured by a governmental agency please contact us.

Your Personal Injury Lawyer

434-8778  
1-800-435-8778  
www.UAskTom.com



THOMAS J. UEBERSCHAER, PA



Thomas J. Ueberschaer, P.A.

ADDRESS:  
601 N. Baylen St.  
Pensacola, FL 32501

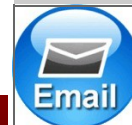
929 Jenks Ave.  
Panama City, FL 32401

LOCAL:  
850.434.8778

TOLL FREE:  
800.435.8778



Online



info@  
ueberschaerlaw.com



UAskTom.com



Like us @ Thomas  
J. Ueberschaer,  
P.A.

# How Attorneys Evaluate Work Comp Claims Since 2003

When injuries happen on the job, the exclusive remedy is workers' compensation except in limited situations. If we are able to seek recovery outside of work comp, we have the potential of a jury trial and helping our clients receive all the damages that are available in the civil trial system. The 2003 Florida law changes require that injured workers overcome a higher standard in order to bring a lawsuit against their employer. Now, employees must prove that an employer's actions were "virtually certain" to cause an injury to the employee, rather than the "substantial certainty" test that was applied before. The 2003 amendments to the Florida Workers' Compensation Act also require evidence that the employer actively misrepresented or concealed the danger from the employee. A proper and thorough investigation by our office could lead to much greater recovery.

When we meet with a new client, we first and foremost will look for any other responsible parties who might provide recovery.



Next, we determine if other disability like social security of long term disability might be available. In dealing with your work comp claim, the attorney must determine if any benefit, no matter how small, has been wrongfully denied. Filing claims and having the experience and ability to win before the work comp Judges is all important. If there are issues that need litigation, the attorney must pre-

pare for trial as soon as possible, try some issues on an emergency basis with the judge, and be willing and able to appeal your case to the highest courts available. If you need help, please call for a free consultation.

## MEASURING SUCCESS

OVER \$100 MILLION RECOVERED FOR OUR CLIENTS

## WARNING: How Social Media can deny your rightful recovery

The internet has fundamentally changed the way people communicate with one another. Whereas once people would have private phone conversations or write sealed letters to one another, most people today simply post their most recent thoughts and activities right on their Facebook page for all to see. This includes photographs and images fully detailing your personal life. Several years ago, insurance companies and defense attorneys caught on to the value of these online websites to help defend their cases. If investigators find anything posted online that indicates you're not as injured as you claim to be, it can and will be used against you in court.

Most people are still under the illusion that when they go online, they're anonymous. In reality, every move they make is being collected into a database. Insurance companies are using this information to set premium rates based on where you live and what kind of lifestyle you lead. They also use this information as another tool to delay, limit or deny your access to medical care and benefits. Evidence gathered online can be taken out of context and presented as evidence in every case. The lesson here is simple: Think twice before posting and be aware what your friends post about you! It can all be

viewed out of context and spun in ways that can deny legitimate claims.



## Ways to Damage Your Auto Accident Case

- ⇒ **Not exchanging information with the other driver involved.**
- ⇒ **Not seeking medical attention right after the accident.**
- ⇒ **Not documenting your damage.**
- ⇒ **Not taking insurance investigations seriously.**
- ⇒ **Signing away your rights.**
- ⇒ **Not communicating with your lawyer.**
- ⇒ **Not taking action on your claim early enough.**

