

50 State - Bad Faith Insurance Claims Survey

State	1st Party COA	3rd Party COA	Statute of Limitation	Damages Recoverable
Alabama	Cmn Law & Ala Code § 27-12-24	No (but direct action under Ala. Code § 27-23-2)	1st Party: 2 years via Ala. Code § 6-5-38(l)	1st Party: Compensatory and punitive. 3d Party: Policy ONLY, no excess.
Alaska	Cmn Law	No	1st Party: 2 years	1st Party: Compensatory damages, interest and punitive. 3d Party: N/A
Arizona	Cmn Law	No	1st Party: 2 years	1st Party: Policy, excess, atty fees/costs, consequential, and punitives. 3d Party: N/A
Arkansas	Cmn Law	No	1st Party: 3 years	1st Party: Compensatory damages, punitive damages. 3d Party: N/A
California	Cmn Law	No	Tort: 2 years; Contract: 4 years	Tort: Consequential (economic and emotional distress), exemplary, and attorney fees. Contract: Policy benefits and interest. 3d Party: N/A
Colorado	Cmn Law & C.S. § 10-3-1112	Cmn Law	Tort: 2 years ; Contract: 3 years	Both: Consequential, attorney fees, punitive damages, and emotional distress.
Connecticut	Cmn Law & Conn. Gen. Stat. §§ 38a-815 & 42-110g	No	Contract: 6 years; Statutes: 3 years	Punitive damages, attorney fees, possible consequential, and emotional distress. 3d Party: N/A
Delaware	Cmn Law	No	1st Party: 3 years	1st Party: Policy, insured's economic losses, the insured's emotional distress, attorney fees, and punitive damages. 3d Party: N/A
District of Columbia	No	No	N/A	N/A
Florida	F.S. §624.155	Cmn Law & F.S Law & F.S. § 624.155624-Cmn Law & F.S. § 624.155	Both: 5 years	1st Party: Excess damages, attorney fees/costs, consequential damages, punitive damage. 3d Party: Excess damages, attorney fees/costs, consequential damages, and punitive damage.
Georgia	O.C.G.A. § 33-4-6	Cmn Law & O.C Law & O.C.G.A. § 33-4-7	Both: 6 years	Both: Not more than 50% of the liability of the insurer for the loss or \$5,000, whichever is greater and reasonable attorney's fees.
Hawaii	Cmn Law & Statutory auto claims only; HRS 431:10C-304(7)	Cmn Law & Statutory auto Law & Statutory auto claims only; HRS 431:10C-304(7)	Both: 2 years for tort claims	Cmn Law: Punitives, attorney fees, consequential damages, and emotional distress. Stat: Monetary penalty for failure to pay benefits.
Idaho	Cmn Law	Cmn-Cmn Law	Both – Tort: 2 years; Contract: 5 years	Both: Emotional distress, attorney fees, consequential, punitives, and damages normally available in tort.
Illinois	Cmn Law & 215 I.L.C.S.	Cmn Law & 215 I.L Law & 215 I.L.C.S. 5/1555	Both: 10 years	Both: Attorney fees, costs, and damages not to exceed: \$60,000; or 60% of judgment; or the amount of the judgment exceeding the last settlement offer prior to trial.
Indiana	Cmn Law and Ind. Code Ann. § 27-4-1112	No	2 years, subject to policy language	1st Party: All damages directly associated with the breach of duty and, subject to a higher standard and burden of proof, punitive damages. 3d Party: N/A
Iowa	Cmn Law	Cmn-Cmn Law	1st Party: 10 years, contract. 3d Party: 5 years	1st Party and 3d Party: Excess damages, consequential damages, and punitive damages.
Kansas	Cmn Law	Cmn-Cmn Law	Both: 5 years; K.S. 60-511	Both: Contract remedies, attorney fees, and costs.
Kentucky	§ 304.12-230	Cmn Law & KRS § 304.12-230	Both: 5 years for statutory claims; 15 years for contract	Both: Consequential damages, punitive damages, and emotional distress.
Louisiana	LSA-1112	LSA-R.S. §22:1892-R.S.1974	Both: 1 year per. § 22:1973.	1st Party and 3d Party: Consequential damages (e.g. mental anguish, emotional distress, humiliation, aggravation, inconvenience, loss of property, loss of use) and defense costs.
Maine	Title 24-A MRS § 2436-A (2006)	No	6 years (general civil suits)	1st Party: Attorney fees, costs and interest penalty (18% per year (1.5% per month)). 3d Party: N/A
Maryland	Md. Code Ann., Cts. & Jud. Proc. §3-1701 and Ins. §27-1001	Cmn-Cmn Law	Both: 3 years	1st Party: Actual damages not to exceed policy limits, costs; attorney fees not to exceed 1/3 of actual damages, Interest. 3d Party: Amount of verdict in excess of insurance policy.
Massachusetts	Cmn Law & G.L. c. 93A &	Cmn Law & G.L Law & G.L. c. 93A & 176D	1st Party: 2 years; 3d Party: 3 years contract; 6 years tort. Both Statutes: 4 years	Both: Attorney fees and doubling or tripling of award if bad faith was "knowing and willful."
Michigan	Cmn Law	Cmn-Cmn Law	Both: undetermined, likely 3 years for tort	1st Party: Limited to policy, but punitive damages may be recoverable in tort. 3d Party: Consequential damages in claims involving failure to settle and possible punitive damages.
Minnesota	Cmn Law & Minn. Stat. § 604.18	No	2 years	1st Party: Penalty equals one-half proceeds awarded in excess of insurer's settlement offer, capped at \$250,000; attorney fees and contract based consequential damages. 3d Party: N/A
Mississippi	Cmn Law	No	1st Party: 3 years	1st Party: Reasonably foreseeable consequences of the insurer's act and punitive damages. 3d Party: N/A
Missouri	R.S.Mo. §§ 375.296 & 375.42	Cmn-Cmn Law	Both: 5 years	1st Party: Contract plus up to 20% of first \$1,500.00, 10% of balance interest and reasonable attorney fees. 3d Party: General damages and punitive damages.
Montana	MCA 33-18-242	Cmn Law & MCA 33 Law & MCA 33-18-242	1st Party: 2 years; 3d Party: 1 year; Stat.: 3 years tort	Both: Damages proximately caused by the violation and punitive damages.
Nebraska	Cmn Law	Cmn-Cmn Law	Both: 5 years	Both: Damages for economic loss proximately caused by insurer's actionable conduct.

Nevada	§ 686A.310	Cmn-Cmn Law	Both: 4 years tort; 3 years settlement practices	1st Party: Cmn Law action - Compensatory damages; Statutory action – Consequential and possible punitive damages. 3d Party: Compensatory and possible punitive damages.
New Hampshire	No	Cmn-Cmn Law	3d Party: 3 years for breach	3d Party: Consequential damages causally related to wrongful denial that were foreseeable and attorney fees.
New Jersey	Cmn Law	Cmn-Cmn Law	Both: 6 years for contract; NJSA 2A:14-1	Both: Punitive damages, consequential damages, emotional distress, and attorney fees.
New Mexico	Cmn Law & Statutory; NMSA 59A-16-30	Cmn Law & Statutory; NMSA Law 59A-16-3016-30	Both: 4 years (settlement practices and property); 6 years contract.	Both: Punitive damages, attorney fees, and consequential damages.
New York	No	Cmn-Cmn Law	3d Party: 6 years	3d Party: Consequential damages, emotional distress, and punitive damages.
North Carolina	Cmn Law & N.C.G.S.A. § 58-54-41	Cmn Law & N.C Law & N.C.G.S.A. §58-54-41	Both: 4 years; Cmn Law - 3 years	1st Party: Damages reasonably foreseeable to occur as a result of a breach, treble damages and punitive damage. 3d Party: Punitive damages.
North Dakota	Cmn Law	No	1st Party: 6 years	1st Party: Consequential damages, attorney fees/costs, emotional distress, and punitive damages. 3d Party: N/A
Ohio	Cmn Law	Cmn-Cmn Law	Both: 4 years for torts	Both: Consequential damages, attorney fees, punitive damages, and emotional distress.
Oklahoma	Cmn Law	No	1st Party: 2 years from date of claim decision.	1st Party: Financial loss, embarrassment, loss of reputation, and mental suffering. 3d Party: N/A
Oregon	No	Cmn-Cmn Law	3d Party: Tort: 2 years (§ 12.110(1)); Contract: 6 years (12.080(1))	3d Party: Excess damages, consequential damages, emotional distress, attorney's fees, and punitive damages.
Pennsylvania	Cmn Law & 42 Pa.C.S. § 8371	Pa.C.S. § 8371.C.S. § 8371	Stat: 2 years; 1st Party Cmn Law: 4 years	Both: Interest, punitive damages, court costs, and attorney fees.
Puerto Rico	Cmn Law	Cmn-Cmn Law	Both: 15 years contract	Both: Consequential damages, emotional distress and attorney fees.
Rhode Island	Cmn Law & § 9-1-33	Cmn-Cmn Law	3/10 year based on policy	Both: Consequential damages, emotional distress, punitives, and attorney fees.
South Carolina	Cmn Law & 42 Pa.C.S. § 8371	No	1st Party: 3 years	1st Party: Attorney fees, consequentials, and punitive damages. 3d Party: N/A
South Dakota	Cmn Law	No	1st Party: 6 years	1st Party: Excess of policy limits, consequential damages, emotional distress, attorney fees, and punitive damages. 3d Party: N/A
Tennessee	Tn Code § 56-7-105	No	1 year	1st Party: Maximum penalty of 25% of insured's loss. Court may award fees and costs.
Texas	Cmn Law & Texas Ins. Code § 541.060 & §542.051 & Tx Bus. & Comm. Code § 17.50	No	1st Party: 2 years	1st Party: Interest, court costs, and attorney fees. 3d Party: N/A
Utah	Cmn Law	Cmn-Cmn Law	1st Party: 3 years; 3d Party: undetermined	1st Party: Attorney fees, consequential damages, and emotional distress. 3d Party: Punitive damages, attorney fees, consequential damages, and emotional distress.
Vermont	Vt. Stat. Ann. Tit. 9, § 2451; Tit 8 § 4724(9)	Cmn Law & Vt. Stat Law Ann. Tit. 9, § 2451; Tit. 8. § 4724(9)	1st Party: Undetermined; 3d Party: 6 years	1st Party: No reported cases on recoverable damages. 3d Party: Contractual and consequential damages and attorney fees upon proof of vexatious conduct by the insurer.
Virginia	Cmn Law & Va. Code §§§ 38.2-209, 8.01-66.1, 38.2-807	Cmn Law & Va. Code §§§ 38.2-209, 8.01-66.1, 38.2-807	1st Party: 2 years for property; 5 years for all other including 3d party	1st Party: Attorney fees, expenses, and consequential damages. Claims less than \$3,500, claimant may recover double the amount that should have been paid or double the amount of the judgment. Claims over \$3,500, amount otherwise due and payable under the policy plus double the interest rate on amounts due.
Washington	Cmn Law & RCW §§§ 48.01.030, 48.30.010(7), 48.30.015(1)	Cmn-Cmn Law	Both: 3 years for Cmn Law; 4 years for statutory violations	1st Party: Punitive damages, attorney fees, consequential damages, and emotional distress. 3d Party: Attorney fees, consequential damages, and emotional distress.
West Virginia	Cmn Law & W. Va. Code § 33-11-1112	No (some attempts under W.Va. Code § 5-11 - 9(7)(A))	1st Party: 1 year; W.Va. Code § 55-2-12(C)	1st Party: Punitive damages, attorney fees, consequential damages, emotional distress, and loss of consortium.
Wisconsin	Cmn Law	No	1st Party: 2 years	1st Party: Consequential, emotional distress, breach of contract, atty fees, and punitives. 3d Party: N/A
Wyoming	Cmn Law	Cmn-Cmn Law	Both: 4 years	Both: Compensatory damages including damage to pecuniary interest and emotional distress as well as punitive damages.

Footnotes

1. Some states have other statutory bases for a claim of bad faith not related to the insurance contract. The cause of action arises out of the conduct of the parties during the litigation. This form of bad faith is not addressed in this abridged 50-state survey.
2. The cause of action for bad faith does not begin to run until there is a finding of liability on the part of the insurer. The statute of limitations is typically tolled during the allowable time period for appeal of the judgment. Check your state to determine when the time period for the statute of limitations begins to run.
3. These are general categories of damages for each respective state. Some may provide additional forms of damage, such as emotional distress, in rare cases. Some may require different standards of proof to recover certain categories of damages. Consult local counsel or check your specific state if you are concerned about a particular form of damage that may not fit the general categories identified in this handout.

The information provided is for reference purposes only. It should not be acted upon without first consulting a lawyer with specific expertise in the subject