



Tip of the Month June 2012

Statutes of Limitation, Statutes of Repose and Notice Requirements – At a Glance

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TYPE OF CLAIM	APPLICABLE LAW	TIME PERIOD
NEGLIGENCE GENERALLY		
(Including automobile, premises, construction, and product liability accidents. <i>A shorter period often overlaps, therefore, it is important to review the specific claims listed below.</i>)	Minn. Stat. §541.05, Subd. 1(5)	Six years (Note the default civil action amendment for negligence, contracts, etc. to four years passed legislature, but was vetoed by Gov. Mark Dayton in February, 2012. Chapter 119, S.F. 373/H.F. 654)
WRONGFUL DEATH		
	Minn. Stat. §573.02, Subd. 1	The lesser of three years from date of death or the applicable statute
PRODUCT LIABILITY		
Notice after attorney-client relationship begins	Minn. Stat. §604.04	Six months
Strict liability	Minn. Stat. §541.05, Subd. 2	Four years
Warranty	Minn. Stat. §336.2 - 725	Four years from date of delivery
Negligence	Minn. Stat. §541.05, Subd. 1(5)	Six years
Expiration of a product's useful life as a factor in weighing fault	Minn. Stat. §604.03	Fact question
CONSTRUCTION		
Improvements to real property	Minn. Stat. §541.051, Subd. 1(a)	Two years
Statute of repose for claims arising from improvements to real property (Time after which no claim can be brought regardless of when the injury occurs)	Minn. Stat. §541.051, Subd. 1, 2 and 4	Ten years from completion of the improvements. May be extended to two years from date of discovery if discovered in the ninth or tenth year.
Negligence	Minn. Stat. §541.05, Subd. 1(5)	Six years
New Home Construction Warranties	Minn. Stat. § 327A.01, <i>et seq.</i>	One year free from defects caused by faulty workmanship and defective materials due to non-compliance with building standards;
	Minn. Stat. §541.051, subd.4	Two years free from defects caused by faulty installation of plumbing, electrical, heating, and cooling systems due to non-compliance with building standards;

Construction continued on top of next page

CONSTRUCTION, continued

New Home Construction Warranties, cont.	<i>Vlahos v. R&I Constr. of Bloomington</i> , 676 N.W.2d 672 (Minn. 2004) <i>Koes v. Advanced Design, Inc.</i> , 636 N.W.2d 352 (Minn. App. 2001) <i>Gomez v. David A. Williams Realty & Constr.</i> , 740 N.W.2d 775 (Minn. App. 2007)	Ten years free from major construction defects in the load-bearing portion of the dwelling due to non-compliance with building standards; Warranty claims begin to run at the time of breach or after the builder is notified of the problem and either refuses or is unable to honor the warranty. This event triggers the two year statute of limitations regardless of discovery of the damage. After August 1, 2004 no warranty action may be brought more than 12 years from completion of the improvements.
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INDEMNITY AND/OR CONTRIBUTION

Negligence	Minn. Stat. §541.05, Subd. 1(5)	Six years from time claimant is required to pay
Improvements to real property	Minn. Stat. §541.051, Subd. 1(a)	Two years from time claimant is required to pay

PREMISES LIABILITY

Negligence	Minn. Stat. §541.05, Subd. 1(5)	Six years
Improvements to real property	Minn. Stat. §541.051	Two years statute of limitations Ten years statute of repose

MEDICAL MALPRACTICE

	Minn. Stat. §541.076	Four years from date of incident or omission or possibly from last date of treatment (Note: changed from two years as of August 1, 1999)
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LEGAL MALPRACTICE

	Minn. Stat. §541.05, Subd. 1(5)	Six years from when damage occurs
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LIQUOR LIABILITY OR DRAM SHOP CLAIMS

Notice served by claimant's attorney	Minn. Stat. §340A.802, Subd. 2	Within 240 days of the date of entering an attorney-client relationship
Claims for contribution/indemnity	Minn. Stat. §340A.802, Subd. 2	Notice must be served within 120 days after the injury occurs or within 60 days after receiving written notice
Statute of limitations from date of injury	Minn. Stat. §340A.802, Subd. 2	Two years

CLAIMS AGAINST THE STATE OR MUNICIPALITY

Notice to municipality or state after loss or injury	Minn. Stat. §466.05, Subd. 1 (municipality) Minn. Stat. §3.736(5) (state)	180 days
Notice requirements to a state or municipality after an injury or loss resulting in a death	Minn. Stat. §466.05 (municipality) Minn. Stat. §3.736, Subd. 6 (state)	One year
Notice to agency Federal Government and six months or denial required	U.S.C. 28 §2401 and §2675	Within two years of accrual

INTENTIONAL TORTS SUCH AS ASSAULT, BATTERY, LIBEL AND SLANDER

Intentional torts such as assault and battery	Minn. Stat. §541.07	Two years
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FRAUD

Statute of limitations from discovery of facts constituting fraud	Minn. Stat. §541.05(6)	Six years
Minnesota's Prevention of Consumer Fraud Act ("CFA"),	Minn. Stat. §§ 325F.69 et seq.,	The statute of limitations begins to run when the alleged misrepresentation is made.

UNINSURED AND UNDERINSURED MOTORIST CLAIMS

<i>Oanes v. Allstate Ins. Co.</i> , 617 N.W.2d 401 (Minn. App. 2000); <i>Stroop v. Farmers Ins. Exch.</i> , 764 N.W.2d 384 (Minn.App. 2009)	The applicable statute of limitations runs from the date the UIM claim becomes ripe such as when claimant receives notice that UIM carrier will not be substituting its settlement check or by final adjudication against the tortfeasor. In UIM cases the statute of limitations runs from the date of the accident.
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NO-FAULT OR PERSONAL INJURY PROTECTION CLAIMS

Minn. Stat. §541.05, Subd. 1(1)	The six year statute of limitations runs from the date that a cause of action for no-fault benefits accrues such as when the insurer discontinues benefits
<i>Entzion v. Illinois Farmers Ins. Co.</i> , 675 N.W.2d 925 (Minn. App. 2004)	

SOME EXCEPTIONS TO THE STATUTE OF LIMITATIONS

<i>Minority</i> (Anyone under the age of 18 would have until the age of 19 to initiate litigation even if the statute of limitations would normally have run before the age of 19)	Minn. Stat. §541.15(a)(1) Minn. Stat. §§ 340A.801-.802 (1994) <i>Whitener vs. Dahl</i> , 625 N.W.2d 827 (Minn. 2001)	One year after reaching majority (The minority-tolling provisions do not apply to actions brought under the Minnesota Civil Damages Act)
Insanity or disability	Minn. Stat. §541.15(a)(2)	One year after the insanity or disability ceases, but never for more than five years beyond the applicable statute of limitations
<i>Relation Back</i> (An additional claim [or defense] may be added to pending litigation after the statute of limitations has run if the claim arises out of the same transaction or occurrence originally pled)	Rules 15.03 of Minnesota Rules of Civil Procedure	
<i>Waiver</i> (If a statute of limitations defense is not affirmatively pled, the defense is generally considered waived)	Rules 8.03 and 12.02 of Minnesota Rules of Civil Procedure	
<i>Delayed Discovery of Sexual Abuse</i>	<i>Minn. Stat. § 541.073; See, W.J.L. v. Bugge</i> , Allows a person who does not 573 N.W.2d 677 (Minn. 1998); <i>Bertram v. Poole</i> , 597 N.W.2d 309 (Minn.App. 1999)	In a sexual abuse context, late discovery of the injury may extend the statute of limitations up to six years after one year after a disability ceases (e.g. in a personal injury claim for sexual abuse the plaintiff was allowed to file suit up to the time she turned 25 or six years after turning 19 which is one year after reaching majority).
<i>Murder</i>	Minn. Stat. § 573.02, subd. 1 (1996) <i>Huttner vs. State of Minnesota</i> , 637 N.W.2d 278 (Minn.App. 2001)	No limitation Note: The "murder exception" to the three-year limitation on bringing wrongful death actions applies to all defendants, not just the murderer.

WORKERS' COMPENSATION SUBROGATION

<i>American Mutual v. Honeywell, Inc.</i> , 422 N.W.2d 274 (Minn.App. 1988)	If an employee initiates a lawsuit within the statute of limitations, the workers' compensation subrogation claim is deemed to have also been initiated before the running of the statute of limitations even if a <i>Naig</i> settlement is reached after the statute of limitations has run)
<i>American Mutual v. Reed Cleaners</i> , 122 N.W.2d 178 (Minn. 1963)	

WORKERS' COMPENSATION NOTICE REQUIREMENTS

Specific injury	Minn. Stat. §176.141	Unless employer has actual knowledge, 14 days after injury If notice given within 30 days, such notice is sufficient unless it prejudices employer If notice given within 180 days, compensation due reduced by prejudice to employer If notice given after 180 days, generally no compensation is allowed
Occupational injury	Minn. Stat. §176.151	Within three years after employee has knowledge of cause of injury and the injury has resulted in disability.

WORKERS' COMPENSATION CLAIM STATUTE OF LIMITATIONS

If no First Report of Injury is filed	Minn. Stat. §176.151(1)	Six years
If First Report of Injury is filed (Statute of Limitations is indefinitely tolled if employer/insurer voluntarily pay benefits)	Minn. Stat. §176.151(1)	Three years

CIVIL CLAIM FOR OBSTRUCTING EMPLOYEE FROM SEEKING WORKERS' COMPENSATION

Minn. Stat. §176.82; <i>McDaniel v. United Hardware</i> 469 N.W.2d 84 (Minn. 1991)	Six years
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NEIGHBORING STATES

WISCONSIN (GENERALLY)

Personal injury	Wis. Stat. §893.54(1)	Three years
Wrongful death	Wis. Stat. §893.54(2)	Three years
Contract	Wis. Stat. §893.43	Six years
Medical Malpractice	Wis. Stat. §893.55(1)	Three years from injury or one year from discovery, but never more than five years
Product liability	Wis. Stat. §893.54 (1)	Three years

IOWA (GENERALLY)

Personal injury	Iowa Code §614.1(2)	Two years
Wrongful death	Iowa Code §614.1(2)	Two years
Contract	Iowa Code §614.1(5)	Ten years if written contract Five years if unwritten contract
Medical Malpractice	Iowa Code §614.1(9)	Two years from discovery of injury, but not more than six years
Product liability	Iowa Code §614.1(2)	Two years
Death or injury by product	Iowa Code §614.1(2A)(a)	15 years

SOUTH DAKOTA (GENERALLY)

Personal injury	S.D. Codified Laws §15-2-14(3)	Three years
Wrongful death	S.D. Codified Laws §21-5-3	Three years
Contract	S.D. Codified Laws §15-2-13(1)	Six years
Medical malpractice	S.D. Codified Laws §15-2-14.1	Two years
Product liability	S.D. Codified Laws §15-2-12.2	Three years

NORTH DAKOTA (GENERALLY)

Personal injury	N.D. Cent. Code §28-01-16(5)	Six years
Wrongful death	N.D. Cent. Code §28-01-18(4)	Two years
Contract	N.D. Cent. Code §28-01-16(1)	Six years (notice)
Medical malpractice	N.D. Cent. Code §28-01-18(3)	Two years
Product liability	N.D. Cent. Code §28-01.3-08, <i>but see, Dickie v. Farmers Union Oil Co.</i> , 2000 ND 111 (N.D. 2000) (held to create an unconstitutional classification)	Generally, injury must occur within ten years of an initial purchase for consumption/use or within eleven years of manufacture date

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