

# **A GUIDE TO BASIC RHODE ISLAND LAW**

**HASSETT | DONNELLY**

## INTRODUCTION

Hassett | Donnelly's *A Guide to Rhode Island Law* is designed to be a concise reference source for issues of Rhode Island law arising in insurance defense cases and business litigation.

The summaries provided for each of the topics covered in this material are meant to provide a beginning point and should be utilized with other reference materials to ensure a complete and accurate analysis with respect to a particular case. The summaries are not meant to set forth a complete legal analysis of the topics addressed in the *Guide*. Given the varying complexity of cases and the ever-changing interpretation of the law, Hassett | Donnelly's *A Guide to Basic Rhode Island Law* should not be interpreted as definitive legal advice.

In the event that you require additional information or assistance with respect to any issue, whether or not it is addressed in Hassett | Donnelly's *A Guide to Basic Rhode Island Law*, please feel free to contact any of our attorneys.

---

HASSETT | DONNELLY

---

BOSTON | HARTFORD | MANCHESTER  
NEW YORK | PORTLAND | PROVIDENCE | WORCESTER

Website: [www.hassettdonnelly.com](http://www.hassettdonnelly.com)

---

\*This publication, *A Guide to Basic Rhode Island Law*, is intended as a service to Hassett & Donnelly, P.C.'s clients, but may be considered advertising under the rules of the State of Rhode Island. Copies of court decisions may be obtained by calling Attorney David Hassett at (508) 791-6287.

---

*A Guide to Basic Rhode Island Law*, 1st Edition  
Copyright © 2022  
Hassett & Donnelly, P.C.

**Rhode Island Law**

- A. CIVIL PROCEDURE..... 1**
  - 1. State Court System..... 1
  - 2. Commencement of an Action. .... 1
  - 3. Service of Process..... 1
  - 4. Answer to Complaint and Affirmative Defenses..... 2
  - 5. Motions to Dismiss..... 2
  - 6. Default/Default Judgment..... 2
  - 7. Third-Party Practice..... 3
  - 8. Counterclaims and Crossclaims..... 3
  - 9. Amendments to Pleadings..... 3
  - 10. Limitations of Actions..... 3
    - a. Tort Actions..... 3
    - b. Malpractice..... 3
    - c. Slander and Libel..... 4
    - d. Wrongful Death..... 4
    - e. Contract Actions..... 4
    - f. Claims Against the State..... 4
    - g. Other..... 4
  - 11. Discovery..... 4
    - a. Depositions..... 4
    - b. Interrogatories..... 5
    - c. Request for Production of Documents and Entry Upon Land for Inspection..... 5
    - d. Physical and Mental Examination of Persons..... 5
    - e. Request for Admissions..... 6
    - f. Failure to Make Discovery..... 6
  - 12. Motion Practice..... 6
  - 13. Interest on Judgments..... 7
  - 14. Costs and Attorney’s Fees..... 7
- B. TORT ACTIONS: GENERAL PRINCIPLES ..... 8**
  - 1. Comparative Negligence and Contributory Negligence..... 8
  - 2. Assumption of the Risk/Open and Obvious Defects..... 8
  - 3. Recreational Use..... 8
  - 4. Joint Tortfeasors..... 8
  - 5. Liability of Employer for Tort of Employee..... 8

6.	Imputed Negligence: Parent/Child.....	9
7.	Imputed Negligence: Husband/Wife.....	9
8.	Interspousal Immunity. ....	9
9.	Immunity of Child and Parent.....	9
10.	Exclusivity of Workers’ Compensation Remedy. ....	9
11.	Workers’ Compensation Liens. ....	10
12.	Charitable Immunity. ....	10
13.	Good Samaritan Acts. ....	10
14.	Damages Recoverable for Personal Injury. ....	10
15.	Pre-Existing Injuries. ....	11
16.	Emotional Distress. ....	11
17.	Punitive Damages. ....	11
18.	Loss of Consortium.....	11
19.	Advance Payments.....	11
20.	Medical Records. ....	11
21.	Releases.....	12
22.	Settlement of Claims of Minor Plaintiffs.....	12
23.	Waiver of Liability and Indemnity Clauses. ....	12
24.	Subsequent Remedial Measures. ....	13
<b>C.</b>	<b>PARTICULAR TORT ACTIONS</b> .....	<b>14</b>
1.	Liquor Liability.....	14
2.	Domestic Animals – Dogs. ....	14
3.	Other Domestic Animals.....	15
4.	Wrongful Death. ....	15
5.	Wrongful Life. ....	16
6.	Fraud and Misrepresentation.....	16
7.	Premises Liability. ....	17
	a. In General.....	17
	b. Snow and Ice.....	17
	c. Falls.....	17
	d. Landlord Tort Liability.....	17
8.	Rhode Island Tort Claims Act. ....	18
9.	Trespass to Real Property. ....	18
10.	Nuisance.....	19
11.	Product Liability. ....	19

a.	Breach of Warranty.....	19
b.	Negligence.....	19
c.	Strict Liability. ....	20
12.	Medical Malpractice .....	20
13.	Legal Malpractice. ....	20
<b>D.</b>	<b>MOTOR VEHICLE LAWS.....</b>	<b>22</b>
1.	Operator’s License.....	22
a.	Limited Instruction Permit. ....	22
b.	Limited Provisional License.....	22
c.	Full Operator's License.....	22
d.	Adult Learner's Permit.....	22
2.	Financial Responsibility.....	22
3.	Owner’s Liability for Operator’s Negligence. ....	22
4.	Operating Under the Influence; Excessive Blood Alcohol.....	23
5.	Accident Reports.....	23
6.	Seat Belts and Child Restraints.....	23
7.	Motorcycle Helmets.....	23
8.	Rules of the Road.....	23
a.	Mutual Forbearance.....	23
b.	Emergency.....	23
<b>E.</b>	<b>UNINSURED AND UNDERINSURED MOTORIST COVERAGE.....</b>	<b>25</b>
1.	Uninsured and Underinsured Motorist Coverage, Generally .....	25
a.	Uninsured and Underinsured Motorists.....	25
b.	Identifying Information.....	25
c.	Hit and Runs.....	25
d.	The Insured.....	25
2.	Prompt Notice to Insurer.....	26
3.	Cooperation with Insurer’s Investigation.....	27
4.	Arbitration.....	27
5.	Stacking.....	27
6.	Calculating Uninsured-Underinsured Motorist Benefits .....	27
a.	Bodily Injury Liability Proceeds from Tortfeasor(s) .....	27
b.	Workers’ Compensation Benefits .....	28
c.	Medical Payments Coverage.....	28
7.	Subrogation .....	28
8.	Statute of Limitations.....	28

9.	Additional Exclusions & Limitations .....	28
a.	Insurer's Consent to Settle.....	28
b.	Off-Road Vehicles.....	29
c.	Liveries.....	29
d.	Geographic Restrictions.....	29
<b>F.</b>	<b>INSURANCE COVERAGE.....</b>	<b>30</b>
1.	Misrepresentation in Application.....	30
2.	Duty to Defend.....	30
3.	Duty to Defend—Responsibility for Pre-Suit Costs .....	31
4.	Duty to Indemnify .....	31
5.	Late Notice.....	31
6.	Insured’s Duty to Cooperate .....	32
7.	Policy Language Interpretation; Ambiguity .....	32
8.	Waiver.....	32
9.	Estoppel.....	33
10.	Insurance Company’s Options for Responding to Claims.....	33
11.	Declaratory Judgment Actions.....	33
12.	Burdens of Proof in Coverage Disputes.....	34
13.	“Other Insurance” Provisions .....	34
14.	Equitable Contribution.....	35
<b>G.</b>	<b>PARTICULAR INSURANCE ISSUES .....</b>	<b>36</b>
1.	Punitive Damages .....	36
2.	Bodily Injury and Emotional Distress.....	36
3.	Property Damage .....	36
4.	Occurrence .....	36
5.	Faulty Workmanship Exclusions .....	37
<b>H.</b>	<b>INSURANCE BAD FAITH.....</b>	<b>38</b>
1.	Bad Faith Recovery. ....	38
2.	Bringing the Claim.....	38
a.	First-Party Claims – Disputes with Insureds.....	38
b.	Third-Party Claims – Misconduct of Insurer .....	38
c.	Hybrid Claims .....	38
d.	Statute of Limitations.....	38
e.	Demand Letter.....	38
f.	Must be Brought Against Insurer.....	38

3.	Theories of Recovery; Defenses. ....	39
a.	Common Law.....	39
b.	No Lawful Basis. . ....	39
c.	Defenses: Fairly Debatable.....	39
4.	Relationship with Breach of Contract Claims .....	39
a.	Breach of Contract as Prerequisite to Recovery. ....	39
b.	Severing Claims.....	39
5.	Damages. ....	40
6.	Notable Decisions. ....	40



A. **CIVIL PROCEDURE**

1. **State Court System.** The Rhode Island Judiciary system consists of three levels: District Courts, Superior Courts, and the Supreme Court. The Superior Court has original jurisdiction in all civil matters with an amount in controversy in excess of \$10,000 and all matters of equity. R.I.G.L. §§ 8-2-13, 8-2-14. The Superior Court sits in four venues (one for each of the state's five counties, plus Providence and Bristol combined). The District Court has original jurisdiction in civil matters with an amount in controversy of less than \$5,000 and concurrent jurisdiction with the Superior Court in civil matters with an amount in controversy between \$5,000 and \$10,000. R.I.G.L. § 8-8-3. The Superior Court is the trial court of record in Rhode Island and is the only court level for hearing jury trials. The District Courts hear trials of misdemeanor cases, and the decisions of the District Court may be appealed to the Superior Court for a trial *de novo*. R.I.G.L. § 8-2-17. All pleadings in the Superior Court must be electronically filed through the state's Judiciary electric filing system. R.I. Super. Ct. R. Civ. P. 1(b). Since Rhode Island has no intermediate appellate court, appeals from the Superior Court go directly to the Supreme Court. R.I.G.L. § 8-1-2.

Unlike most states which promulgate one set of rules for civil procedure to be applied across all trial-level courts, Rhode Island has promulgated separate rules of civil procedure for each trial-level court. Since the district and superior court rules are nonetheless often identical, but the superior court has jurisdiction over major actions, and has adjudicated interpretations of its rules more thoroughly, this Guide will follow the Superior Court Rules of Civil Procedure.

2. **Commencement of an Action.** In the Superior Court, a civil action is commenced by the filing of a complaint and all other required documents and fees, through the state's electronic filing system. R.I. Super. Ct. R. Civ. P. 3. The summons and complaint must be served within 120 days after the filing of the Complaint unless the party on whose behalf service was required can show good cause why such service has not been made. R.I. Super. Ct. R. Civ. P. 4(l). Otherwise, the Complaint may be dismissed without prejudice upon the court's own initiative or upon a Motion to Dismiss. *Id.* A demand for jury trial must be a separate pleading, rather than included within the Complaint itself. R.I. Super. Ct. R. Civ. P. 7(a).
3. **Service of Process.** Service of the summons and Complaint is governed by R.I. Super. Ct. R. Civ. P. 4 and 5. Under Rule 5, an individual may be served personally, mailed to his or her last known address, or by leaving the summons and Complaint at his or her: office with a person in charge, office in a conspicuous place, or last and usual place of abode. R.I. Super. Ct. R. Civ. P. 5(b)(3). Service may be made upon a corporation by delivering a copy of the summons and Complaint to an officer, to a managing or general agent, or to the person in charge of the business at the principal place of business within Massachusetts. R.I. Super. Ct. R. Civ. P. 4(e)(3). An individual or a corporation may also be served by delivering a copy of the summons and Complaint to an agent authorized by appointment or by statute to receive service of process, subject to any further statutory notice requirements. *Id.* In addition, if the process server makes