

LAWSUIT AGAINST THE STATE OF INDIANA

On occasion, Wischmeyer Law Office will receive an inquiry about a claim against the State of Indiana for negligence. All too often, I am unable to assist the potential client because of limits that exist in the State of Indiana for negligence lawsuits. Still, if I am called early enough in the process there is a chance of recovery against the State so long as the call to my office is made early enough.

What a client needs to know is there are time limits that must to be followed to file a claim against the State of Indiana that start with the filing of a Tort Claim Notice within 180 days of the date of the alleged negligent act. The State of Indiana receives notice to a few different agencies and then a notice is returned to advise if the agency is entitled to governmental protections. Almost always, a political subdivision will be notified and a denial letter related to the Tort Claim Notice is issued within thirty (30) days of receipt of the client's Notice. At that point, a lawsuit can be filed.

Governmental entities continue to receive special treatment in negligence law after the filing of a lawsuit. Generally, the State of Indiana representatives receive personal immunity for actions taken in the scope of their employment. In addition, an injured person is limited to a recovery cap of \$300,000 for their claims without regard to the amount of damages a person has incurred as a result of the State's negligence.

In addition, the State enjoys a contributory fault standard meaning that you must prove you are not at all responsible for the alleged conduct. If a judge or jury were to find the person even 1% at fault then that person cannot recover any money from the State of Indiana for their damages. This is a significant impediment to recovery and must be strongly considered before proceeding with any claim.

Claims against the State of Indiana are difficult, but not impossible for an experienced personal injury attorney such as Jason P. Wischmeyer. Please contact my office to discuss your potential case at 317-429-0210 and we can set up a time to talk if I am not available when you call.

Thank you for your inquiry.

Jason Wischmeyer



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