



New Jersey Statute of Limitations Checklist

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A Checklist of the statutes of limitations in New Jersey for several commercial claims.

ACCOUNT STATED

- **Limitations period.** The statute of limitations is six years (*N.J. Stat. Ann. § 2A:14-1 (2011)*; *Pagano v. United Jersey Bank*, 648 A.2d 269, 272 (*N.J. Super. Ct. App. Div. 1994*)).
- **Accrual date.** The statute of limitations accrues on the date the plaintiff demanded payment and the demand was refused (*Keil v. Nat'l Westminster Bank, Inc.*, 710 A.2d 563, 571 (*N.J. Super. Ct. App. Div. 1998*)).

ANTITRUST

- **Limitations period.** The statute of limitations is four years (*N.J. Stat. Ann. § 56:9-14 (2011)*).
- **Accrual date.** The statute of limitations accrues on the date the cause of action arose (*N.J. Stat. Ann. § 56:9-14 (2011)*). If the cause of action is based on conspiracy in violation of the New Jersey Antitrust Act, the statute of limitations accrues within four years after the plaintiff discovered, or should have discovered the facts relied on for proof of the conspiracy (*N.J. Stat. Ann. § 56:9-14 (2011)*). A cause of action for a continuing violation is deemed to arise at any time during the period of such violation (*N.J. Stat. Ann. § 56:9-14 (2011)*).

For more New Jersey antitrust information see *Box, Special Rules and Exceptions: Pending or Recently Terminated Government Lawsuit*.

BREACH OF CONTRACT

- **Limitations period.** The statute of limitations is:
 - six years for non-sales contracts (*N.J. Stat. Ann. § 2A:14-1 (2011)*); and
 - four years for contracts for the sale of goods under the Uniform Commercial Code (*N.J. Stat. Ann. § 12A:2-725 (2011)*).
- **Accrual date.** The statute of limitations accrues:
 - for a non-sales contract action on the date that the right to institute and maintain a suit first arose (*Nat'l Util. Serv., Inc. v. Cambridge-Lee Indus., Inc.*, 199 Fed. Appx. 139, 142 (3d Cir. 2006)); and
 - for a sales contract action at the time of either the breach or anticipatory breach (*N.J. Stat. Ann. § 12A:2-725 (2011)*; *Am. Cyanamid Co. v. Miss. Chem., Corp.*, 817 F.2d 91, 93 (11th Cir. 1987)). Parties to a sales contract may reduce the limitations period, but it must be at least one year, and the parties may not extend it beyond the four-year statutory limit (*N.J. Stat. Ann. § 12A:2-725 (2011)*). The discovery rule does not toll sales contract causes of action because these actions accrue when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach (*N.J. Stat. Ann. § 12A:2-725 (2011)*).

BREACH OF FIDUCIARY DUTY

- **Limitations period.** The statute of limitations is:
 - usually six years for a breach of fiduciary duty causing purely economic loss and is controlled by the substantive law governing the relationship (*Balliet v. Fennell*, 845 A.2d 168, 170, 172 (*N.J. Super. Ct. App. Div. 2004*)); and
 - two years for a breach of fiduciary duty harming one's physical or emotional well-being (*Balliet, at 171*).

- **Accrual date.** The statute of limitations:
 - accrues when the plaintiff has actual or constructive knowledge for a claim of breach of fiduciary duty causing purely economic loss (*Fleming Cos. v. Thriftway Medford Lakes, Inc.*, 913 F. Supp. 837, 846 (D.N.J. 1995)). A plaintiff has actual or constructive knowledge when he learns, or reasonably should learn, of the existence of facts forming the basis of a cause of action (*Fleming*, at 846); and
 - accrues in an uncertain manner for a claim of breach of fiduciary duty harming one's physical or emotional well-being, as there are no cases on point. However, causes of action under Section 2A:14-2 usually accrue when the injured party discovers or should have discovered that he may have a basis for an actionable claim (*Burd v. N.J. Tel. Co.*, 386 A.2d 1310, 1314-15 (N.J. 1978)). The basis for an actionable claim is defined as the material facts of the case (*Burd*, at 1315).

BREACH OF WARRANTY

- **Limitations period.** The statute of limitations is four years (*N.J. Stat. Ann. § 12A:2-725 (2011)*).
- **Accrual date.** The statute of limitations for a breach of warranty cause of action accrues when tender of delivery is made (*Comm'rs of Fire Dist. No. 9, Iselin, Woodbridge, N.J. v. American La France*, 424 A.2d 441, 444 (N.J. Super. Ct. App. Div. 1980); *N.J. Stat. Ann. § 12A:2-725(2) (2011)*). If the warranty explicitly extends to future performance of the goods, the four-year limitations period does not begin to run until the breach was or should have been discovered by plaintiff, provided the breach arises within the warranty period (*Comm'rs of Fire Dist. No. 9.*, at 444; *N.J. Stat. Ann. § 12A:2-725(2) (2011)*).

For more information on breach of warranty, see *Box, Special Rules and Exceptions: Warranty*.

CONSUMER PROTECTION STATUTES

- **Limitations period.** The statute of limitation is six years for claims under the New Jersey Consumer Fraud Act (*Kennedy v. Axa Equitable Life Ins., Co.*, 2007 WL 2688881, at *2 (D.N.J. Sep. 11, 2007)).
- **Accrual date.** The statute of limitations accrues when the plaintiff suffers actual damage and discovers, or through reasonable diligence should discover, the facts essential to his claim (*Kominsky v. C.B. Planning Servs. Corp.*, 2010 WL 3516808, at *4 (N.J. Super. Ct. App. Div. Sep. 9, 2010)).

CONVERSION

- **Limitations period.** The statute of limitations is:
 - six years for claims involving conversion of chattel (*N.J. Stat. Ann. § 12A:14-1 (2011)*; *Weiss v. Stelling*, 130 N.J.L. 235, 237 (N.J. 1943)); and
 - three years for a claim involving conversion of a negotiable instrument (*N.J. Stat. Ann. § 12A:3-118(g)*; *N.J. Lawyers' Fund for Client Prot. v. Pace*, 892 A.2d 661, 661 (N.J. 2006)).
- **Accrual date.** The statute of limitations accrues:
 - when the chattel is first tortuously taken for a claim involving chattel (*Weiss*, at 237); and
 - when the check is negotiated for a claim involving a negotiable instrument (*N.J. Lawyers' Fund for Client Prot.*, at 661).

EMPLOYMENT MATTERS

- **Limitations period.** The statute of limitations is:
 - one year for claims filed under the Conscientious Employee Protection Act (*N.J. Stat. Ann. § 34:19-5 (2011)*);
 - one hundred eighty days for administrative claims filed under the Law Against Discrimination (*N.J. Stat. Ann. § 10:5-18 (2011)*) and two years for civil cases filed in the Superior Court (*Montells v. Haynes*, 627 A.2d 654, 655 (N.J. 1993)); and
 - two years for petitions filed under the Worker's Compensation Act (*N.J. Stat. Ann. §§ 34:15-41 (2011)* and *34:15-51 (2011)*).
- **Accrual date.** For a claim filed under the:
 - Conscientious Employee Protection Act, where there is a continued pattern of retaliatory conduct by the employer, the one-year statute of limitations accrues from the last retaliatory act (*Matthews v. N.J. Inst. of Tech.*, 2011 WL 741230, at *4 n13 (D.N.J. Feb. 24, 2011));
 - Law Against Discrimination, for discrete retaliatory or discriminatory acts, the statute of limitations accrues on the day the act occurs (*Alexander v. Seaton Hall Univ.*, 8 A.3d 198, 203 (N.J. 2010)). For a series of separate acts constituting a single unlawful employment practice, the statute of limitations accrues on the date of the last component act (*Alexander*, at 203); and
 - Worker's Compensation Act, the statute of limitations accrues on the date of injury (*N.J. Stat. Ann. § 34:15-51 (2011)*; *Witty v. Fortunoff*, 669 A.2d 244, 246 (N.J. Super. Ct. App. Div. 1996)). If the employer and the claimant make a compensation agreement, the statute of limitations accrues two years after the employer fails to make payment under the agreement; or, if the employer pays part compensation, then within two years after the last payment (*N.J. Stat. Ann. § 34:15-51 (2011)*; *Witty*, 669 A.2d at 246).

ENFORCEMENT OF JUDGMENTS

- **Limitations period.** The statute of limitations is 20 years for New Jersey judgments (*N.J. Stat. Ann. § 2A:14-5 (2011)*; *Giordano v. Wolcott*, 134 A.2d 593, 594 (*N.J. Super. Ct. App. Div. 1957*)). For foreign judgments, the statute of limitations is the shorter of 20 years or the length of time to enforce the judgment in the foreign jurisdiction (*N.J. Stat. Ann. § 2A:14-5 (2011)*). The statute of limitations is 20 years for an execution concerning real estate, goods and chattel (*N.J. Stat. Ann. § 2A:17-3 (2011)*).
- **Accrual date.** The statute of limitations accrues on the entry of judgment in the district court for New Jersey judgments (*N.J. Stat. Ann. § 2A:14-5 (2011)*; *Giordano*, at 595). The statute of limitations accrues for executions on the execution's entry (*N.J. Stat. Ann. § 2A:17-3 (2011)*).

FRAUD

- **Limitations period.** The statute of limitations is six years for fraud (*N.J. Stat. Ann. § 2A:14-1 (2011)*).
- **Accrual date.** The statute of limitations accrues on the date of the act or omission that gives rise to the fraud claim, or the date on which the act or omission reasonably should have been discovered (*Southern Cross Overseas Agencies, Inc. v. Wah Kwong Shipping Group Ltd.*, 181 F.3d 410, 413 (3d Cir. 1999)).

FRAUDULENT CONCEALMENT

- **Limitations period.** The statute of limitations is two years for the tort of fraudulent concealment (*Avagnano-Pirozzi v. Chinchar*, 2010 WL 4025881, at *6 (*N.J. Super. Ct. App. Div. Aug. 12, 2010*)).
- **Accrual date.** The statute of limitations may accrue on the date the plaintiff discovers the actions alleged to form the basis of the fraudulent concealment claim (see *Avagnano-Pirozzi*, at 6). Courts have also found the statute of limitations to accrue when the economic harm caused by defendant's fraudulent concealment has ended (see *Viviano v. CBS, Inc.*, 597 A.2d 543, 551 (*N.J. Super. Ct. App. Div. 1991*)) (statute of limitations accrues after settlement of legal claim delayed by fraudulent concealment).

INSURANCE BAD FAITH

- **Limitations period.** Absent a provision in the insurance policy or an express statute to the contrary, the statute of limitations applicable to actions on an insurance policy is six years (*Gahnney v. State Farm Ins. Co.*, 56 F. Supp. 2d 491, 495 (*D.N.J. 1999*)). The limitations period may be shortened by the insurance policy and a one-year period is enforceable (*Gahnney*, at 495).

- **Accrual date.** The statute of limitations accrues on the date of the incident, but is tolled from the time the insured gives notice until the insurer formally declines liability (*Gahnney*, at 495-96).

For more information on insurance bad faith claims, see *Practice Note, Insurance Bad Faith Law* (<http://us.practicallaw.com/4-505-9149>).

NEGLIGENCE

- **Limitations period.** The statute of limitations is:
 - two years for personal injury claims (*N.J. Stat. Ann. § 2A:14-2 (2011)*); and
 - six years for property claims (*N.J. Stat. Ann. § 2A:14-1 (2011)*).
- **Accrual date.** The statute of limitations for negligence accrues either:
 - on the date of the act or omission giving rise to the claim; or
 - on the date the injured party discovers, or reasonably should have discovered that he may have a basis for an actionable claim.
 (*Hardwicke v. Am. Boychoir Sch.*, 902 A.2d 900, 925 (*N.J. 2006*)).

PRODUCTS LIABILITY

- **Limitations period.** The statute of limitations is two years against product manufacturers and sellers (*Dziewiecki v. Bakula*, 853 A.2d 234, 237 (*N.J. 2004*)).
- **Accrual date.** The statute of limitations period accrues on the date the injured party discovers, or reasonably should have discovered, the basis for an actionable claim (*Lapka v. Porter Hayden Co.*, 745 A.2d 525, 529 (*N.J. 2000*)).

For more information on products liability time limitations, see *Box, Special Rules and Exceptions: Products Liability Statute of Repose*.

SHAREHOLDER DERIVATIVES SUITS

- **Limitations period.** No statute of limitations applies, as these actions sound in equity. However, laches may be used as a defense if the stockholder with full knowledge of the facts has deferred an unreasonable length of time in bringing action (*Hill Dredging Corp. v. Risley*, 114 A.2d 697, 713 (*N.J. 1955*)).
- **Accrual date.** New Jersey has no statute of limitations applicable to shareholder derivative suits.

THIRD-PARTY CONTRIBUTION

- **Limitations period.** In practice, the applicable statute of limitations is determined by the underlying claim on which the contribution claim is brought.
- **Accrual date.** The statute of limitations period accrues when the plaintiff recovers a judgment against the defendant. Under the entire controversy doctrine, if those claims are known, they should be asserted in the original action. (*Schreck v. Wal-Mart Stores*, 2010 WL 551435 at *6 (*D.N.J. Feb. 16, 2010*)).

TORTIOUS INTERFERENCE WITH CONTRACT RIGHTS

- **Limitations period.** The statute of limitations is six years for claims of tortious interference with a contract (*In re Bernheim Litig.*, 290 B.R. 249, 258 (D.N.J. 2003)).
- **Accrual date.** The statute of limitations period accrues when the plaintiff discovers, or reasonably should have discovered, that he may have a basis for an actionable claim (*In re Bernheim Litigation*, at 260).

TRADE SECRET MISAPPROPRIATION

- **Limitations period.** The statute of limitations is six years (*N.J. Stat. Ann. § 2A:14-1* (2011)).
- **Accrual date.** The statute of limitations period accrues when the plaintiff knew or should have known of the injury giving rise to his claim (*Blystra v. Fiber Tech Group, Inc.*, 407 F. Supp. 2d 636, 644 (D.N.J. 2005)).

TRADEMARK INFRINGEMENT

- **Limitations period.** The New Jersey Trademark Act does not contain a statute of limitations section. Instead, laches governs the timeliness of trademark claims under both the Lanham Trademark Act and the New Jersey Trademark Act (*Pharmacia Corp. v. Alcon Labs., Inc.*, 201 F. Supp. 2d 335, 382 (D.N.J. 2002)). Courts evaluate a laches defense by considering the plaintiff's actual or constructive knowledge of infringement and any subsequent delay in seeking relief (*Pharmacia*, at 383). A plaintiff's inexcusable delay may result in denial of a preliminary injunction (*Pharmacia*, at 383).
- **Accrual date.** The New Jersey Trademark Act does not contain a statute of limitations section.

UNFAIR COMPETITION

- **Limitations period.** The statute of limitations is six years for unfair competition claims under the common law and section 56:4-1 of New Jersey's unfair competition statute (*Kelly v. Estate of Arnone ex rel. Ahern*, 2009 WL 2392108, at *7 (D.N.J. Aug. 3, 2009)).
- **Accrual date.** New Jersey case law does not specifically discuss the accrual date for an unfair competition cause of action. However, the statute of limitations likely accrues on the date of the act giving rise to the unfair competition claim (*Kelly*, at 7).

UNJUST ENRICHMENT

- **Limitations period.** The statute of limitations is six years (*Jacobson v. Celgene Corp.*, 2010 WL 1492869, at *3 (D.N.J. Apr. 14, 2010)).
- **Accrual date.** Generally, the statute of limitations period accrues when the plaintiff last rendered services to the defendant (*Jacobson*, at 4). The unjust enrichment statute of limitations may be tolled by the discovery rule (*Component Hardware Group, Inc. v. Trine Rolled Moulding Corp.*, 2007 WL 2177667, at *8 (D.N.J. Jul. 27, 2007)). Therefore, the cause of action will not accrue until the injured party discovers, or reasonably should have discovered, facts that form the basis of a cause of action (*Component*, at 8).

WRONGFUL DEATH AND SURVIVAL

- **Limitations period.** The statute of limitations is two years for wrongful death claims (*N.J. Stat. Ann. § 2A:31-3* (2011); *Presslaff v. Robins*, 403 A.2d 939, 940 (N.J. Super. Ct. App. Div. 1979)). New Jersey has no statute of limitations for a wrongful death action, if the death resulted from murder, aggravated manslaughter or manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent (*N.J. Stat. Ann. § 2A:31-3* (2011)). The statute of limitations is two years for survival actions (*Thomas v. Correctional Med. Servs., Inc.*, 2009 WL 737105, at *3 (D.N.J. Mar. 17, 2009)).
- **Accrual date.** The limitations period for a wrongful death claim accrues on the date of the decedent's death (*N.J. Stat. Ann. § 2A:31-3* (2011)). The discovery rule does not apply to wrongful death causes of action (*Presslaff*, at 942). The limitations period for a survival claim accrues on the date of the alleged improper acts or omissions, not on the date of the decedent's death (*Kisselbach v. County of Camden*, 638 A.2d 1383, 1386 (N.J. Super. Ct. App. Div. 1994)).



SPECIAL RULES AND EXCEPTIONS

New Jersey has special rules and exceptions that may toll or otherwise affect any of the statutes of limitations described above. Depending on the cause of action and facts of the case, one or more of the following rules may affect the running of the statute of limitations.

DISCOVERY RULE

Generally, the statute of limitations begins to run from the time of the accrual of the action (*Prudential Ins. Co. of Am. v. U.S. Gypsum Co.*, 828 F. Supp. 287, 298 (D.N.J. 1993)). However, in the interests of equity, New Jersey has adopted the discovery rule (*Prudential*, at 298). The discovery rule delays the accrual of an action until the plaintiff discovers, or by exercise of reasonable diligence and intelligence should have discovered, facts that form the basis of a cause of action or provide a basis for an actionable claim (*Henry v. N.J. Dep't of Human Servs.*, 9 A.3d 882, 891 (N.J. 2010)). The discovery rule applies to various causes of action in New Jersey, including fraud, negligence, and New Jersey Consumer Fraud Act actions.

FRAUDULENT CONCEALMENT RULE

New Jersey has also adopted the doctrine of fraudulent concealment, which tolls the statute of limitations to prevent wrongdoers from benefiting by fraudulently concealing a cause of action until the statute of limitations has run (*Prudential Ins. Co. of Am. v. U.S. Gypsum Co.*, 828 F. Supp. 287, 300 (D.N.J. 1993)). The doctrine tolls the running of the statute until the plaintiff discovers the cause of action or discovers facts that reasonably put him on notice of it (*Prudential*, at 300). For example, if a plaintiff alleges fraud and the doctrine applies, the statute of limitations accrues on the date the fraud was or reasonably should have been discovered by the plaintiff (*Bauer v. Bowen*, 164 A.2d 357, 361 (N.J. Super. Ct. App. Div. 1960)).

EQUITABLE TOLLING

Equitable estoppel may prevent a defendant from asserting the statute of limitations as a defense under certain circumstances. Equitable estoppel may apply:

- When a defendant's actions directly impact the plaintiff's decision on whether to file suit, for example, when a defendant has lulled a plaintiff into a false sense of security by representing that a claim will be amicably settled without litigation.
- When based on the defendant's misrepresentations or failures to adhere to a legal duty to disclose, the plaintiff relied on the defendant's actions in not filing suit earlier.

(*Prudential Ins. Co. of Am. v. U.S. Gypsum Co.*, 828 F. Supp. 287, 303 (D.N.J. 1993).)

CLASS ACTION TOLLING

When a class action complaint is filed, it tolls the statute of limitations for all purported class members who intervene until class certification is denied (*Thomas v. Correctional Med. Servs., Inc.*, 2009 WL 737105, at *4 (D.N.J. Mar. 17, 2009)). The statute of limitations is not tolled if the plaintiff chooses to file an independent action before the class certification issue is determined (*Thomas*, at 4).

PENDING OR RECENTLY TERMINATED GOVERNMENT LAWSUIT

State civil or criminal New Jersey Antitrust Act actions suspend the statute of limitations for all private rights of action under the Antitrust Act during the pendency of the state action, plus one year (*N.J. Stat. Ann. § 56:9-15* (2011)).

WARRANTY

If a breach of warranty action on a sales contract is commenced within four years after the breach, but is terminated in a way that leaves available a remedy by another action for the same breach, a second action may be started after the expiration of the initial limitations period. The second action must start within six months after the termination of the first action, unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute (*N.J. Stat. Ann. § 12A:2-725(3)* (2011)).

DEFENDANT'S ABSENCE FROM THE STATE

The personal injury statute of limitations may be equitably tolled during the pendency of an action brought in a court that lacked personal jurisdiction over the defendant (*Jaworowski v. Ciasulli*, 490 F.3d 331, 336 (3d Cir. 2007)).

Under New Jersey statutory law, the statute of limitations for certain claims will not accrue during the period that a defendant does not reside in New Jersey, if either:

- The defendant is not a New Jersey resident when the cause of action accrues.
- The defendant leaves New Jersey after the statute of limitations accrues, but before the statute of limitations expires.

(*N.J. Stat. Ann. § 2A:14-22* (2011).)

The defendant's absence affects the accrual date of various causes of action, including, but not limited to personal injury actions, non-sales contract actions, real property construction and improvement actions, civil actions brought by the state, and libel and slander actions (*N.J. Stat. Ann. § 2A:14-22* (2011)).

SPECIAL RULES AND EXCEPTIONS (CONT.)

PLAINTIFF'S DISABILITIES

The running of the statute of limitations may be tolled when the cause of action accrues if the plaintiff is under 21 years of age or insane (*N.J. Stat. Ann. § 2A:14-21 (2011)*). The statute of limitations accrues once the plaintiff reaches 21 or is sane (*N.J. Stat. Ann. § 2A:14-21 (2011)*). A plaintiff is considered insane for tolling purposes if he suffers from a condition of mental derangement that actually prevents him from understanding his legal rights or instituting legal action (*In re Bernheim Litigation, 290 B.R. 249, 261 (D.N.J. 2003)*).

PRODUCTS LIABILITY STATUTE OF REPOSE

Generally, a products liability statute of repose will bar a plaintiff from starting a strict products liability action a certain number of years after the product's first sale, even if the plaintiff started the action before the statute of limitations expired on his products liability claim. New Jersey has not adopted a products liability statute of repose (*Gantes v. Kason Corp., 679 A.2d 106, 112 (N.J. 1996)*). By contrast, no action against a person performing or furnishing a real property survey under a contract, for any purpose other than real property improvement, may be started more than ten years after the survey (*N.J. Stat. Ann. § 2A:14-1.3 (2011)*).

EXTENSION OWING TO REVERSAL OR JUDGMENT AGAINST THE PLAINTIFF

In certain actions, if judgment is awarded to the plaintiff and reversed on appeal, or if judgment is given against the plaintiff following a motion for relief from a judgment in the plaintiff's favor, the plaintiff may start a new action within one year after the reversal or the judgment against him (*N.J. Stat. Ann. § 2A:14-28 (2011)*). This rule applies to various New Jersey causes of action, including, but not limited to personal injury actions, non-sales contract actions, real property construction and improvement actions, civil actions brought by the state, and libel and slander actions (*N.J. Stat. Ann. § 14-28 (2011)*). However, this rule does not apply to breach of sales contract actions under New Jersey's Uniform Commercial Code (*N.J. Stat. Ann. § 2A:14-28 (2011)*).

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