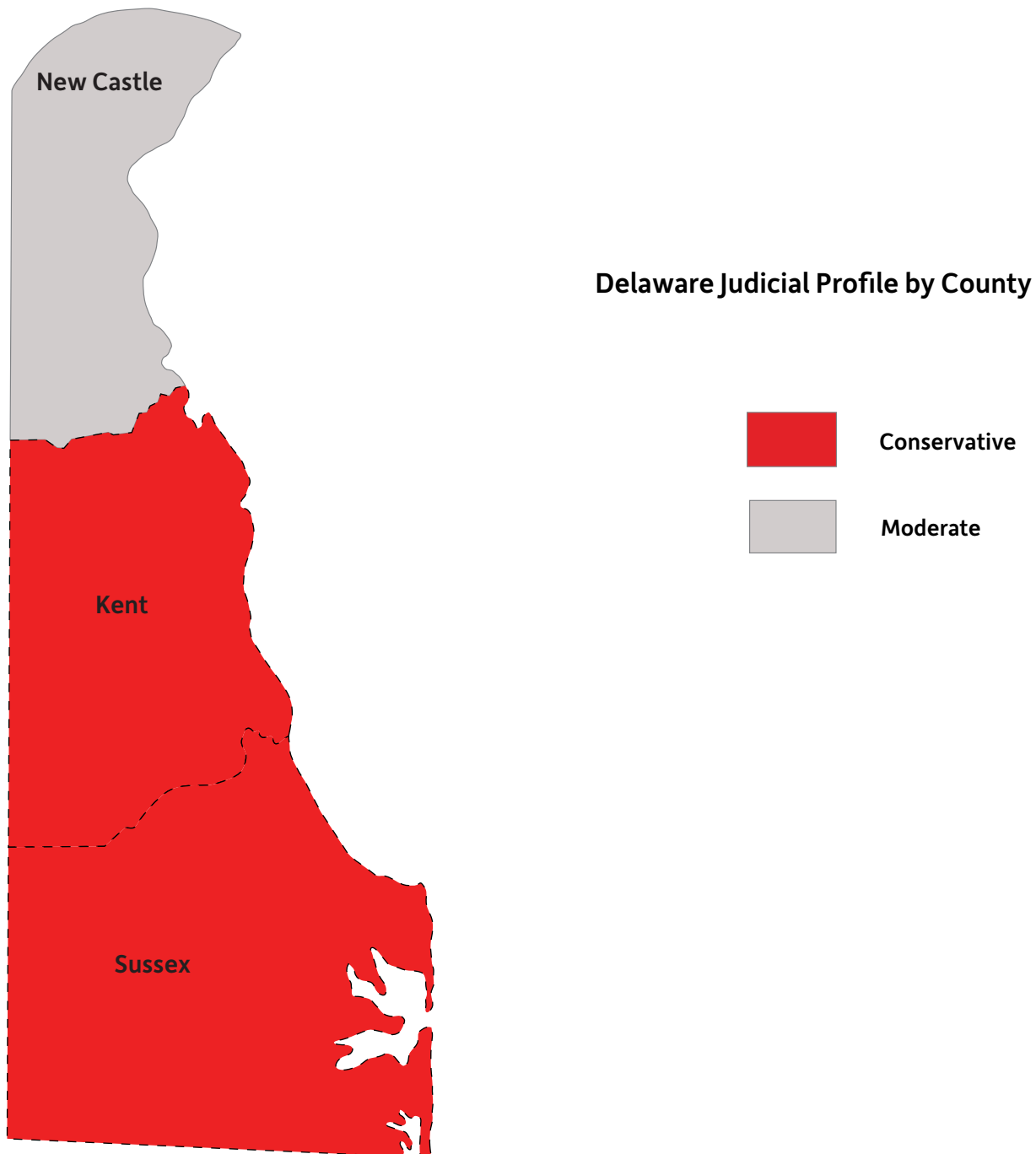


## Delaware Tort *Easy Reference*



1. **Statute of Limitations** – Two years for negligence actions. Plaintiff must be provided with notice of the two year statute on denial of a claim.
2. **Punitive Damages** – Plaintiff must prove willful, wanton and malicious actions to recover punitive damages in a negligence or insurance “bad faith” claim.
3. **Comparative Negligence** – A plaintiff must prove the defendant was more at fault than he was in order to recover damages (51%). Recovery may be reduced by the percentage of negligence attributed to the plaintiff.
4. **Assumption of the Risk** – Only primary assumption of the risk may bar recovery, i.e. a plaintiff expressly relieves the defendant of all duty.
5. **Dram Shop Act** – Not recognized.
6. **Premises Liability** – Guest Statute applicable to non paying invitees bars recovery for simple negligence of the landowner.
7. **Negligent Infliction of Emotional Distress** – Is recognized as a cause of action.
8. **Collateral Source Rule** - Enforced. Evidence of health insurance may be admitted in limited circumstances.
9. **Mandatory Liability Coverage** – Minimum limits: \$25,000 per person; \$50,000 per occurrence for bodily injury, \$10,000 for property damage.
10. **Personal Injury Protection** – Also known as No Fault coverage. Minimum coverage: \$15,000 per person; \$30,000 per accident. Coverage extends for two years from the date of the accident. PIP payments may be subrogated against the tortfeasor’s liability limits.
11. **Uninsured Motorist Coverage** – Mandatory minimum of \$25,000, but may be waived in writing by the named insured.
12. **Offer of Judgment** - May be served on the plaintiff and then filed if not accepted in 10 days. A verdict below the offer and the plaintiff must pay the defendant’s costs.
13. **Joint and Several Liability** – Is recognized.
14. **Seat Belt Rule** – Seat belt use inadmissible in a civil trial as evidence of comparative negligence. Limited admission in products liability cases.
15. **Courts** – Justice of the Peace Court; property damage and claims up to \$15,000. No personal injury. Appeal to the CCP. Court of Common Pleas; claims up to \$50,000. No jury trial for civil matters. Defendant can request jury and have the case removed to Superior Court. Superior Court; Court of General jurisdiction and primary trial court. Chancery Court; Court of equity, primarily adjudicates corporate matters, fiduciary duty, and other issues with where no monetary damages are sought. Supreme Court; appellate court, highest court in Delaware, hears appeals from Superior, Chancery and Family courts.
16. **Death Cases** – Delaware recognizes both a wrongful death action by eligible beneficiaries and a separate survival action brought by the decedent’s estate.