



## Critical Changes in Comprehensive Insurance Disclosure

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New York State has significantly expanded the requirements covering disclosure of insurance-related information in commercial litigation commenced on or after December 31, 2021.

Governor Kathy Hochul signed the Comprehensive Insurance Disclosure Act into law on December 31, 2021, and signed a remedial law on February 24, 2022, to limit some of the more onerous and worrisome aspects of the new disclosure regime (together the “Act”). The Act amends a subsection of the Civil Practice Law and Rules (“CPLR”) governing the scope of disclosure under CPLR 3101(f) and added certification requirements under CPLR 3122-b.

The most notable effect of the Act is that a party must now produce certain insurance information without the need for a demand within 90 days of serving an answer or reply. The new CPLR 3101(f) expressly requires the production of the following information:

- Full and complete insuring agreements, “including, but not limited to, declarations, insuring agreements, conditions, exclusions, endorsements, and similar provisions” unless a plaintiff consents, in writing, to accept a declarations page, which consent can be withdrawn at any time.  
CPLR 3101(f)(1) & CPLR 3101(f)(1)(ii)

- “[A]ll primary, excess and umbrella policies,” which includes Lloyds Underwriters, surplus line insurers, and self-insurance programs that “relate to the claim being litigated.” CPLR 3101(f)(1)(i)
- The name and email address of the responsible claims adjuster. CPLR 3101(f)(1)(iii)
- The total limits available under any policy to satisfy a judgment or reimburse for payments made to satisfy a judgment. CPLR 3101(f)(1)(iv)
- The updated total of available limits resulting from erosion or any other offsets of policy limits, whether due to other claims or attorneys’ fees, at set litigation milestones, including the end of discovery, court-supervised settlement negotiations, mediation, and trial, and the parties also must make reasonable efforts to ensure that this insurance information otherwise remains accurate and complete. CPLR 3101(f)(2)

The Act establishes the time period within which disclosures must be made. The first mandatory disclosure must be made “[n]o later than ninety days after service of an answer.” CPLR 3101(f)(1). The disclosure also must remain accurate and complete through the entire litigation “and for sixty days after any settlement or entry of final judgment in the case inclusive of all appeals.” CPLR 3101(f)(2).

The Act also requires parties to certify to the accuracy and completeness of the insurance information disclosed:

- The disclosure information needs to be served together with both a party **and** attorney certification, under the new CPLR 3122-b, that states “the information is accurate and complete, and that reasonable efforts have been undertaken, and in accordance with paragraph two of subdivision (f) of section thirty-one hundred one of this article will be undertaken, to ensure that this information remains accurate and complete.” CPLR 3122-b.

Compliance with the amended Act will require coordination early in a case, given the short window to produce that information after the initial pleadings. The mandatory disclosure obligation applies to all parties in an action that may have an insurance policy that is applicable to the litigated claims.

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