

New York Comprehensive Insurance Disclosure Act ("CIDA") Checklist

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Applies to: All civil actions thereafter commenced.

Requirements

Initial disclosure and timing [CPLR 3101(f)(1)]:

No later than 90 days after service of an answer, whether it be to a complaint, counterclaim, cross-claim, or third-party complaint, a defendant or third-party defendant shall provide to all parties in the litigation, proof of the existence and contents of any insurance policy, in the form of a copy of the insurance policy in place at the time of the loss, or if agreed to in writing by such plaintiff or party in writing, a declarations page, under which any person or entity may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse for payments to satisfy the entry of final judgment.

If a party accepts the declarations page in lieu of a copy of the policy, the party can thereafter request a copy of the policy, which must be provided.

Production shall include information on all applicable policies [CPLR 3101(f)(1)(i)]:

All primary, excess, and umbrella policies, insofar as such documents relate to the claims being litigated.



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If policies, rather than declarations pages, are being produced, complete policies are to be provided [CPLR 3101(f)(1)(ii)]:

A complete copy of the policy shall be provided, including declarations, insuring agreements, conditions, exclusions, endorsements, and similar provisions. The application for insurance is not required to be produced. see CPLR 3101(f)(3) below.

Initial production shall include information about the person adjusting the claim [CPLR 3101(f)(1)(iii)]:

The contact information, limited to the name and email address, of the individual responsible for adjusting the claim at issue.

Initial production shall also include available policy limits [CPLR 3101(f)(1)(iv)]:

The total limits of liability available under the policy, which shall mean the actual funds, after taking into account erosion and any other offsets, that can be used to satisfy a judgment or reimburse the payments made to satisfy a judgment.

Subsequent disclosures [CPLR 3101(f)(2)]:

A defendant, third-party defendant, cross-claim defendant, or counterclaim defendant, must make “reasonable efforts” to ensure that the information provided remains accurate and complete and provide updated information to any party to whom disclosures have been made:

- At the filing of the note of issue;
- When entering into any formal, court supervised, settlement negotiations;
- At a voluntary mediation;
- When the case is called for trial; and
- For 60 days after any settlement or entry of final judgment in the case, inclusive of all appeals.



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Policy production detail [CPLR 3101(f)(3)]:

The production of the policy shall not include the policy application.

The production of the policy shall not constitute an admission that the policy covers the injury or damages.

Policy disclosures not admissible at trial [CPLR 3101(f)(4)]:

The production of the policy information does not, by reason of disclosure, make the information admissible in evidence at trial.

Disclosure rules do not apply to actions seeking to recover No-Fault (Personal Injury Protection) benefits [CPLR 3101 (f)(5)]:

The rules adopted by CIDA do not apply to lawsuits seeking to recover PIP benefits.

Dual certifications [CPLR 3122-b]:

The information provided under 3101(f)(1) shall be accompanied by a “certification” by the defendant, third-party defendant, cross-claim defendant, or counterclaim defendant, **and** a certification by any attorney appearing for the disclosing party, sworn in the form of an affidavit **or** affirmation where appropriate, stating that the information is “accurate and complete, and that reasonable efforts have been undertaken, and in accordance with [CPLR 3101(f)(2)] will be undertaken, to ensure that this information remains accurate and complete.”

Sample certification:

“I, _____, hereby affirm that reasonable efforts have been undertaken and accordingly, upon information and belief, that the policy information being provided is, to the best of my knowledge, accurate and complete and that reasonable efforts will be taken, under CPLR 3101(f)(2), to ensure that the information remains accurate and complete.”