

## Required Disclosures Under the New Comprehensive Insurance Disclosure Act

In June 2021, one day prior to the close of the legislative session, both houses of the New York State Legislature saw bills introduced and summarily passed (bill nos. A08041 and S07052), which sought to implement a new “Comprehensive Insurance Disclosure Act” (“CIDA”). CIDA was delivered to the Governor’s Office on December 20, 2021, and on December 31, 2021, Governor Hochul signed CIDA into law (Chapter 832 of Laws of 2021). The passage of CIDA resulted in significant amendments to CPLR §3101(f) and the addition of a new CPLR §3122-b. For convenience, we have summarized the required disclosures below:

CPLR §3101(f)(1)-(3) and CPLR 3122-b now require disclosure of the following items by insured-defendants on or before March 1, 2022 for all pending actions, or within 60-days of answering for all new actions:

- all primary, excess and umbrella policies, contracts or agreements including, but not limited to, declarations, insuring agreements, conditions, exclusions, endorsements, and similar provisions—*including the insurance application*;
- the amounts available under any policy, contract or agreement to satisfy a judgment;
- the caption and date of any lawsuits that have or may reduce or erode these amounts and contact information for the attorney of any represented party therein;
- the amount, if any, of attorney's fees that have eroded or reduced the face value of the policy, along with the name and address of any attorney who received such payments;
- the contact information, including telephone number and e-mail address, of any person or persons responsible for adjusting the claim; and
- sworn certifications from both the insured and the insured’s counsel indicating that the above disclosures are accurate and complete, and that reasonable efforts have and will be undertaken to ensure that this information remains accurate and complete pursuant to CPLR 3101(f)(2).

CPLR §3101(f)(2) requires that the insured-defendant and defense counsel make “reasonable efforts to ensure that the information remains accurate and complete, and provide updated information . . . within thirty days of receiving information rendering the prior disclosure inaccurate or incomplete in whole or in part.”

Accordingly, insurance carriers should expect periodic inquiries throughout litigation regarding the above materials, or should themselves proactively report on the above information to defense counsel at regular intervals to reduce legal costs associated with compliance.

Have questions regarding compliance with the disclosure requirements under CIDA? Contact Dan D. Kohane, Esq. ([ddk@hurwitzfine.com](mailto:ddk@hurwitzfine.com)) or Ryan P. Maxwell, Esq. ([rpm@hurwitzfine.com](mailto:rpm@hurwitzfine.com)).