

New York Alleviates Some Requirements of the Comprehensive Insurance Disclosure Act

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Litigation Alert

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After significant pushback from insurers and defendants, in late February the New York Legislature made amendments that reduce the burden of some of the original disclosure requirements of the Comprehensive Insurance Disclosure Act (CIDA). Notably, insurance applications are no longer required and the obligations only apply to cases commenced this year or after.

On December 31, 2021, New York Governor Kathy Hochul signed the CIDA into law. That law amended CPLR 3101(f) by imposing new disclosure obligations on defendants and defense counsel, which were required to be disclosed within 60 days of service of the answer. The obligations included mandatory disclosure of all insurance policies that could be used to satisfy a judgment, information in lawsuits that involve the payment of attorney's fees that erode policy limits, and insurance policy applications. Moreover, defense counsel and defendants were required to certify that the disclosures were accurate and complete — a continuing obligation lasting until 60 days after any settlement or entry of final judgment in the case inclusive of all appeals. The law applied to new lawsuits, as well as to pending lawsuits.

Although many of the disclosure requirements remain and are automatic, the recent amendments alleviated some of the requirements from the original CIDA. Now, disclosures are only required under CIDA as to lawsuits filed after December 31, 2021. Additionally, the amendments extend the original deadline for disclosures from 60 to 90 days after service of an answer. Further, disclosure of insurance applications is no longer required, and the information that must be disclosed has been narrowed. Now, declaration pages rather than complete copies of the policies may be produced (though if a policy is produced instead of a declarations page, the complete policy must be provided). No information about other lawsuits or the payment of attorneys' fees must be provided, but the total available policy limits, accounting for erosion and other offsets must still be provided.

Make no mistake: obligations on defendants remain. The CIDA as a whole still presents changes to New York procedure relating to insurance disclosures in litigation. Defendants and their counsel should seek to familiarize themselves with the new requirements in preparation for obligations that now apply to any New York state cases filed in 2022.

If you have questions or would like further information, please contact Rafael Vergara (vergarar@whiteandwilliams.com; 212.631.4416) or Monica Doss (dossm@whiteandwilliams.com; 212.868.4831).

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