1. Minimum Liability Limits

Pursuant to California Insurance Code section 11580.1(b) and California Vehicle Code section 16056(a), the minimum liability insurance requirements for private passenger vehicles are: $15,000 for injury/death to one person; $30,000 for injury/death to more than one person; and $5,000 for damage to property.

For motor carriers of property, vehicles with a gross vehicle weight rating (“GVWR”) of 10,000 or more are required to carry a minimum combined single coverage limit of $750,000 for bodily injuries, deaths, or property damage pursuant to Vehicle Code section 34631.5. Vehicles with a GVWR of less than 10,000 are required to carry a minimum combined single coverage limit of $300,000. There are also special minimum coverage requirements for motor carriers transporting petroleum products and hazardous material under section 34631.5.

2. Negligence Laws

California is a pure comparative fault state.

3. Bodily Injury Statute of Limitations

The statute of limitations for bodily injury is 2 years. However, if the injury is not discovered right away, the statute of limitations is 1 year from the date the injury is discovered.

4. Property Damage Statute of Limitations

The statute of limitations for property damage is 3 years from the date the damage occurred.
5. Are punitive damages insurable in the jurisdiction?

No, punitive damages are not insurable under California law. (*City Products Corp. v. Globe Indemnity Co.*, (1979) 88 Cal.App.3d 31, 42.) Further, California *Insurance Code* section 533 provides that an insurer is not liable for a loss caused by the willful acts of the insured.

6. Is there an intrafamily immunity defense in California?

No, California does not recognize an intrafamily immunity defense.

7. Is there a bodily injury damage threshold? If so, what is it?

No, there is no bodily injury damage threshold in California.

8. What are the quick rules on subrogation MP/PIP?

The insurer is generally entitled to reimbursement rights based on the policy provisions. PIP (personal injury protection) is not mandatory in California.

9. Are there no fault laws in the jurisdiction?

Under California law, some fault must be shown before a person is held responsible for injury or death arising from a motor vehicle accident or other insured occurrence.

10. Is the customer’s insurance primary?

Yes.

11. Is there a seat belt defense?

Under California law, a defendant can assert a plaintiff’s failure to wear a seat belt in terms of plaintiff’s comparative fault. (*Truman v. Vargas* (1969) 275 Cal.App.2d 976.) The defendant must use expert testimony to prove whether the plaintiff would have been injured, and the extent of the injuries, if a seat belt had been used. (*Id.; see also Franklin v. Gibson* (1982) 138 Cal.App.3d 340, 342-43.)

12. Is there a last clear chance defense?

The introduction of comparative negligence abolished the last clear chance doctrine. The former last clear chance doctrine has merged into the assessment of liability in proportion to fault.
13. Is there an assumption of risk defense?

Yes, there is an assumption of risk defense available under California law. Unlike the last clear chance doctrine, it has not merged into the comparative fault assessment.

14. Is there a UM requirement?

Pursuant to California Insurance Code section 11580.2, automobile liability policies must insure the insured against personal injury attributable to a negligent uninsured driver. This coverage is mandatory unless waived by the insured.

15. Is there a physical contact requirement?

Yes, California Insurance Code section 11580.2 requires physical contact. With respect to an “uninsured motor vehicle” whose owner or operator is unknown, the plaintiff must show the bodily injury arose out of physical contact of the automobile with the insured or with an automobile that the insured is occupying.

16. Is there a mandatory ADR requirement?

There is no mandatory ADR requirement.

17. Are agreements reached at mediation enforceable?

Yes, agreements reached at mediation are enforceable subject to certain requirements under California Evidence Code section 1123. The mediation agreement must be signed by all settling parties. Additionally, one of the following conditions must be met: (a) the agreement provides that it is admissible or subject to disclosure, or words to that effect, (b) the agreement provides that it is enforceable or binding or words to that effect, (c) all parties to the agreement expressly agree in writing, or orally in accordance with Section 1118, to its disclosure, or (d) the agreement is used to show fraud, duress, or illegality that is relevant to an issue in dispute.

If the requirements under Evidence Code section 1123 are met, the mediation agreement could be enforced under California Code of Civil Procedure section 664.6. This section provides that if the parties to the pending litigation stipulate to settlement in a writing signed by the parties, upon motion, the court may enter judgment pursuant to the terms of the settlement. Further, if requested by the parties, the court may retain jurisdiction over the parties to enforce the agreement until the terms of the agreement have been fully performed.

18. What is the standard of review for a new trial?

The general standard of review for a new trial is prejudicial error. California Code of Civil Procedure section 657 provides the grounds upon which a new trial may be granted:
(1) irregularity in proceedings or abuse of discretion; (2) jury misconduct; (3) accident or surprise; (4) newly discovered evidence; (5) excessive or inadequate damages; (6) insufficiency of evidence; and (7) error in law.

19. Is pre-judgment interest collectable? If so, at what rate?

Yes, it is possible to collect pre-judgment interest for unliquidated tort claims. Pursuant to California Civil Code section 3288, “[i]n an action for the breach of an obligation not arising from contract . . . interest may be given, in the discretion of the jury.” Furthermore, under section 3291, a plaintiff who obtains a more favorable judgment than a pretrial section 998 settlement offer is entitled to recover interest at the rate of 10% per annum on the judgment from the date of the offer.

20. Is post-judgment interest collectable? If so, at what rate?

Yes, pursuant to California Code of Civil Procedure section 685.010, post-judgment interest is collectable at the rate of 10% per annum from the date of entry of judgment.

21. Is there a workers’ compensation exclusive remedy defense?

Generally, yes. Pursuant to California Labor Code section 3600, an employee’s rights against his/her employer for on-the-job injuries lie solely under workers’ compensation law. Said another way, workers’ compensation is an employee’s exclusive remedy for on-the-job injuries. Certain exceptions apply. For example, workers’ compensation is not the only remedy available where an employer is uninsured, for actions arising out of willful assault/imprisonment, and where the employer fraudulently conceals the existence of the injury.

22. Is the doctrine of joint and several liability applicable?

The doctrine of joint and severable liability applies to economic damages. However, pursuant to California Civil Code section 1431.2, a defendant’s liability for non-economic damages is apportioned according to fault (several liability).

23. Is there a self-critical analysis privilege?


24. Is accident reconstruction data admissible?

Yes, accident reconstruction evidence is admissible.
25. What is the rule on admissibility of medicals paid/reduced v. total bills submitted?

Under *Hanif v. Housing Authority* (1988) 200 Cal.App.3d 635 and *Howell v. Hamilton Meats & Provisions, Inc.* (2011) 52 Cal.4th 541, only the negotiated rate for medical expenses is admissible. (The negotiated rate may or may not be the full amount billed.)

26. What is the jurisdiction’s rule on offers of judgment?

Pursuant to California *Code of Civil Procedure* section 998, at least 10 days before trial or arbitration, any party can serve a settlement offer on any other party. A plaintiff who does not obtain a more favorable judgment must pay the defendant’s costs from the time the offer was made, and the court has discretion to allow the defendant to recover expert witness fees and costs. A defendant who fails to obtain a more favorable judgment may be required, in the discretion of the court or arbitrator, to pay the plaintiff’s post-offer expert witness fees in addition to the plaintiff’s costs.

27. What is the jurisdiction’s rule on spoliation of evidence?

There is no tort remedy for the intentional or negligent spoliation of evidence committed by a party to the action that is, or reasonably could have been, discovered by the spoliation victim prior to the conclusion of the underlying actions. (*Cedar-Sinai Med. Ct. v. Sup. Ct (Bowyer)* (1998) 18 Cal.4th 1, 16; *Coprich v. Sup. Ct. (Liberty Mut. Ins. Co.* (2000) 80 Cal.App.4th 1081, 1089-90.)

However, nontort remedies exist for such misconduct, including discovery sanctions, a presumption that destroyed evidence would be adverse to the spoliator (and jury instructions to that effect), contempt sanctions, criminal penalties, and professional discipline against spoliator’s counsel (if applicable).

28. Are there damages caps in place?

Generally, there is no damages cap under California law. (An exception arises with respect to non-economic damages cap under MICRA for medical malpractice.)

29. Is CSA 2010 data admissible?

There is no case law squarely on point regarding whether CSA (Compliance, Safety, Accountability) 2010 data is admissible.

30. Briefly, does the jurisdiction have any unique rules on electronic discovery?

Pursuant to California *Code of Civil Procedure* sections 2031.010 and 2031.060, parties may demand discovery of electronically stored information (“ESI”). The responding party may object to production and seek a protective order. The parties must meet and confer regarding the dispute before moving for a protective order. The court has the power to compel discovery of ESI (even where production is burdensome), allocate
expenses of production, and impose other conditions, including conditions on the frequency and extent of such discovery. Generally, the responding party must produce the information in the form in which it is ordinarily maintained or in a form that is reasonably usable. However, the court shall not impose sanctions for failure to produce ESI that has been lost, damaged, altered, or overwritten as the result of the routine, good faith operation of an electronic information system. Similarly, California Code of Civil Procedure sections 2020.410 and 2020.510 provide that a deposition subpoena can command a non-party to produce ESI.

31. Is the sudden emergency doctrine recognized in the jurisdiction?


32. Are there any rules prohibiting or limiting the use of the reptile theory at trial?

Although California courts have not expressly used the term “reptile theory,” courts prohibit use of the “Golden Rule” argument, which asks jurors to place themselves in the victim’s shoes in deciding how much they would charge to undergo the same pain suffered by the plaintiff. Collins v. Union Pacific R. Co. (2012) 207 Cal.App.4th 867, 883 (“Deliberate attempts by counsel to appeal to the social or economic prejudices of the jury is misconduct, where irrelevant to the issues of the case.”). The purpose behind making a Golden Rule argument is extremely similar to that of a reptilian approach, which is to appeal to jurors’ concern for their own safety and the safety of their community, instead of the evidence at issue. Given California’s prohibition against the Golden Rule argument, it will likely prohibit any reptilian strategies as well.

33. What are the jurisdictional limits of the jurisdiction’s civil courts – i.e. Small Claims, District Court, Superior Court?

The California Small Claims Court handles cases with damages of $10,000 or less. The jurisdictional limits for the California Superior Court depends on whether the case involves damages of more than $25,000. Limited civil cases involve matters for $25,000 or less, while unlimited civil cases involve matters for more than $25,000.

34. Are state judges elected or appointed?

Both. The Governor appoints judges to the California Supreme Court and Courts of Appeal. At the next general election, the appointed judges must be confirmed by the voters. Supreme Court and Court of Appeal judges generally serve 12-year terms after which they are subject to retention elections for an additional 12-year term. Superior Court judges serve 6-year terms. The Governor appoints Superior Court judges only to fill vacancies. Every judge is up for election at the end of the 6-year term.