1. **Minimum liability limits**

   None, unless a driver is involved in an accident. If the driver is involved in an accident, he is required to carry liability minimums of $25,000 per person, per accident, a maximum of $50,000 per accident if more than one individual is injured, and $25,000 for property damage per accident. See RSA 264:20.

2. **Negligence laws (Is the jurisdiction a pure contributory negligence state; what type of comparative fault is applicable, etc.?)**

   Comparative fault is available in a modified form in New Hampshire. In the event that more than 50% of fault for the at-issue injury is apportioned to an individual, then the liability is joint and several. If the liability apportioned to an individual is below 50%, the liability is several only. See RSA 507:7-d.

3. **Bodily injury statute of limitations**

   Three years. See RSA 508:4.

4. **Property damage statute of limitations**

   Generally, three years, although with respect to construction damages, there is an eight-year statute of repose. See RSA 508:4-b.

5. **Are punitive damages insurable in the jurisdiction?**

   No, unless specifically authorized by statute.

6. **Is there an intrafamily immunity defense?**

   No.

7. **Is there a bodily injury damage threshold? If so, what is it?**
8. **What are the quick rules on subrogation MP/PIP?**

Subrogation is not available to a carrier who has made an MP payment. See RSA 264:17. PIP coverage is not applicable in New Hampshire.

9. **Are there no fault laws in the jurisdiction?**


10. **Is the customer’s insurance primary?**

The customer’s insurance is not automatically primary. See, e.g., *Case v. Fidelity & Cas. Co. of N.Y.*, 105 N.H. 422 (1964).

11. **Is there a seat belt defense?**


12. **Is there a last clear chance defense?**


13. **Is there an assumption of risk defense?**


14. **Is there a UM requirement?**

Yes, in the event a person is required to have coverage under the Financial Responsibility Act as a result of an accident, then uninsured motorist coverage is required. See RSA 264:15, I.

15. **Is there a physical contact requirement?**


16. **Is there a mandatory ADR requirement?**


17. **Are agreements reached at a mediation enforceable?**

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

A new trial may be granted “in any case when through accident, mistake or misfortune, justice has not been done and a further hearing would be equitable.” RSA 526:1.

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

Yes, at “the prevailing discount rate of interest on a 26-week United States Treasury Bill at the last auction thereof preceding the last day of September in each year, plus two percentage points” rounded to the nearest 1/10\(^\text{th}\) of 1%. See RSA 336:1, II.

20. **Is post-judgment interest collectable?**

Yes, at “the prevailing discount rate of interest on a 26-week United States Treasury Bill at the last auction thereof preceding the last day of September in each year, plus two percentage points” rounded to the nearest 1/10\(^\text{th}\) of 1%. See RSA 336:1, II.

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

Yes. See RSA 281-A:8.

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

Yes, in a modified form. See response to question 2 above.

23. **Is there a self-critical analysis privilege?**

Generally, no. Certain healthcare entities do have a quality assurance privilege which is similar to a self-critical analysis privilege. See RSA 151:13-a.

24. **Is accident reconstruction data admissible?**


25. **What is the rule on admissibility of medicals paid/reduced vs. total bills submitted?**

There is a split currently existing among the trial courts of New Hampshire. Some trial judges allow only the amount of the medical bill actually paid, while some find the so-called “negotiated rate” between the insurance carrier and the provider to be inadmissible pursuant to the collateral source rule. There is no governing Supreme Court precedent on this issue.

26. **What is the jurisdiction’s rule on offers of judgment?**
A defendant may pay a certain amount of money into court. If the plaintiff does not accept that amount and does not prove damages in an amount greater to the amount that has been paid into court, the plaintiff will pay all of the defendant’s costs incurred after the money has been paid into court. See Super.Ct.R. 50. However, “costs” typically include filing fees, subpoena fees, and costs of deposition transcripts to be used at trial but to not include attorneys’ fees.

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

Spoliation can be either a jury question or a question for the court, depending on how strong the evidence is. Generally, to prove spoliation a party must show that when the at-issue evidence was destroyed, the party destroying it had an obligation to preserve it, that the evidence was destroyed with a culpable state of mind, and that the evidence was relevant to a claim or defense in the litigation. See, e.g., *New Hampshire Ball Bearings, Inc. v. Jackson*, 158 N.H. 421 (2009).

28. **Are there damages caps in place?**

In certain loss of consortium cases, damage caps are in place. See RSA 556:12

29. **Is CSA 2010 data admissible?**

The admissibility of CSA 2010 data is currently unknown.

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

Yes. Newly enacted Superior Court Civil Rules require automatic disclosure of electronically stored information relevant to claims and defenses in the case, unless the use would be solely for impeachment. Superior Court Rule 22(a)(2). Superior Court Rule 25 also requires the parties to meet and confer “promptly” about preservation of electronically stored information. Counsel for the parties have a duty to notify their client to place a “litigation hold” on all potentially relevant ESI. *Id.*

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

New Hampshire requires that “[t]o warrant application of the doctrine, there must be evidence that the party seeking to invoke it was called upon to take immediate action to meet the dangers of a sudden unexpected occurrence, not occasioned by his own fault.” *Bonenfant v. Hamel*, 96 N.H. 228 (1950) (citations and quotations omitted).

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

Although there are no specific rules addressing the reptile theory, if New Hampshire had to address the issue, it would likely forbid such arguments. New Hampshire case law indicates that “jurors must ultimately base their judgment on the evidence presented and the natural
inferences therefrom [and] [t]hus, there must be limits to pleas of pure passion and there must be restraints against blatant appeals to bias and prejudice.” Id., 140 N.H. 403, 406 (1995) (quoting Draper v. Airco, Inc., 580 F.2d 91, 95 (3d Cir.1978)); see also, e.g., LeBlanc v. Am. Honda Motor Co., Inc., 141 N.H. 579, 582, 688 A.2d 556, 560 (1997) (“A mistrial or a new trial may be warranted where counsel attempts to appeal to the sympathies, passions, and prejudices of jurors grounded in race or nationality, by reference to the opposing party's religious beliefs or lack thereof, or by reference to a party's social or economic condition or status.”)

Likewise, New Hampshire Rules of Evidence 401, 403, and 404 are in accord with their federal counterparts. These rules, collectively, acknowledge the principal that evidence that is unfairly prejudicial and only marginally relevant can impact “directly upon the fairness of the trial and the integrity of the system.” N.H. R. Evid. 403, Reporter’s Notes. This was the common law view in this state before the rules were adopted. See, e.g., Solmica of New England, Inv. v. Verreault, 115 N.H. 4, 7 (1975).

33. **What are the jurisdictional limits of the jurisdiction’s civil courts?**

New Hampshire has two levels of civil trial courts, the Circuit Court District Division and the Superior Court. The Superior Court hears civil cases with a minimum claim of $1,500 in which either party requests a trial by jury. The Superior Court also has exclusive jurisdiction over cases in which the damage claims exceed $25,000, regardless of whether a jury has been requested. The Circuit Court District Division has jurisdiction over small claims cases and civil cases which do not exceed $25,000 in damage claims and in which neither party has requested a trial by jury. The Superior Court is the only court that holds jury trials.

34. **Are state judges elected or appointed?**

State judges are appointed.