1. **Minimum liability limits**

   15/30/5

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

   New Jersey has a modified comparative fault rule. If the plaintiff’s negligence is not greater than that of the defendant, the plaintiff can recover but will find his damages proportionately reduced. N.J. STAT. ANN. § 2A:15-5.1.

3. **Bodily Injury Statute of Limitations**


4. **Property Damage Statute of Limitations**

   6 years. N.J. STAT. ANN.. § 2A-14-1.

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

   Punitive damages assessed due to direct liability are not insurable, but punitive damages assessed due to vicarious liability are insurable.

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

   No.

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

   New Jersey drivers have the option of either a “verbal” threshold policy or a no-limits insurance policy. The verbal threshold is the default option and limits a motorist’s ability to bring a lawsuit for injuries sustained in a New Jersey automobile accident. New Jersey’s verbal threshold statute limits eligibility for noneconomic damages that are
compensable by insurance coverage to the following types of motor vehicle accident injuries:

- Bodily injuries that result in death or dismemberment;
- Significant disfigurement or significant scarring;
- Displaced fractures;
- Loss of a fetus; and
- Permanent injuries that can be established “within a reasonable degree of medical probability”.

See N.J. STAT. ANN. § 39:6A-8. As a result, a person who suffers an injury that does not meet one of these criteria cannot seek insurance coverage for claims such as emotional distress, loss of consortium, or loss of physical abilities that do not affect employment.

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

In New Jersey, insurance policies for private passenger vehicles are required to provide enumerated personal injury protection (“PIP”) benefits to certain classes of persons regardless of who was at fault for the accident. The New Jersey PIP “No-Fault” statute mandates first-party payment of a range of benefits, including medical expenses, lost wages, essential services, survivor benefits, and funeral expenses. N.J. STAT. ANN. § 39:6A-1.

N.J. STAT. ANN. § 39:6B-1 provides that:

Every owner or registered owner of a motor vehicle registered or principally garaged in this State shall maintain motor vehicle liability insurance coverage … wherein such coverage shall be at least in (1) an amount of limit of $15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and (2) an amount of limit, subject to such limit for any one person so injured or killed, of $30,000.00, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and (3) an amount or limit of $5,000.00, exclusive of interest and costs, for damage to property in any one accident.

Insurers paying PIP benefits for medical expenses have the right to recover the amount paid from any tortfeasor who, at the time of the accident, was not required to maintain PIP or medical expenses benefits coverage, or although required, did not maintain PIP or medical expense benefits coverage. This does not represent a lien against the plaintiff’s recovery from a third-party, but instead a direct claim that may be asserted by the PIP insurer.

9. Are there no fault laws in the jurisdiction?

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

Yes.

11. Is there a seat belt defense?

The New Jersey seat belt law requires all front-seat occupants of passenger vehicles operated in New Jersey to wear a seat belt. The motorist is responsible for all passengers under 18 years of age. Front-seat passengers 18 years of age and over are responsible for themselves. Motorists with permits or probationary licenses must use seat belts. Additionally, they must require all passengers seated anywhere in the vehicle to use seat belts. N.J. STAT. ANN. §§ 39:3-76.2f, 39:3-13.2a, 39:3-13.4.

The failure to wear a seat belt is not negligence per se. New Jersey Courts have observed that a plaintiff’s failure to wear a seat belt cannot contribute causally to the happening of an accident and, therefore, should have no effect on his recovery for the first impact injuries sustained. As a result, the relevant inquiry is not whether the failure to use a seat belt contributed to the cause of the accident but whether the non-use of the seat belt contributed to the plaintiff’s injuries. The defendant has the burden of producing evidence that the non-use of the seat belt enhanced the plaintiff’s injuries. Any percentage of fault attributed to a plaintiff for not wearing a seat belt will not reduce the full amount of damages but instead only those injuries and damages determined to have been caused by the failure to use a seat belt.

12. Is there a last clear chance defense?

No.

13. Is there an assumption of risk defense?

No.

14. Is there a UM requirement?

Yes.

15. Is there a physical contact requirement?

No.

16. Is there a mandatory ADR requirement?

No. However, a New Jersey Superior Court or Municipal Court judge may require the parties to attend a mediation session at any time following the filing of a complaint. R. 1:40-4.
17. Are agreements reached at a mediation enforceable?

A settlement that is reached at mediation but not reduced to a signed written agreement is not enforceable if there exists a genuine dispute as to either the agreement’s terms or whether an agreement was reached at mediation. Willingboro Mall, Ltd. v. 240/242 Franklin Ave., L.L.C., 215 N.J. 242 (2013)

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

The standard of review is whether there was a miscarriage of justice under the law. “Plain” or “harmful” error is error clearly capable of producing an unjust result. Plain error is the appropriate standard of review on appeal when no objection is made at trial. Harmful error is the appropriate standard of review when a specific error was brought to the trial judge’s attention. The plain error rule and the harmful error rule are identical but just used in different situations.

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

Yes. Pursuant to R. 4:42-11(b), the annual pre-judgment interest rate is equal to the average rate of return for the State of New Jersey Cash Management Fund for the preceding fiscal year, rounded off to the nearest whole or one-half percent. Pre-judgment interest does not include future economic loss.

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

Yes. Pursuant to R. 4:42-11(a)(ii), the annual post-judgment interest rate is equal to the average rate of return for the State of New Jersey Cash Management Fund for the preceding fiscal year, rounded off to the nearest whole or one-half percent.

21. Is there a workers compensation exclusive remedy defense?

Yes.

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

Yes. Any defendant whose negligence is 60% or more is jointly and severally liable for the claimant’s entire damages. One whose negligence is less than 60% is only severally liable for that portion of the claimant’s total damages that is equal to his percentage of negligence.

23. Is there a self critical analysis privilege?

Although not recognized as a privilege per se, New Jersey Courts apply a case-by-case balancing approach. The United States District Court for the District of New Jersey has found the privilege applicable in the context of the highly-regulated pharmaceutical industry, where the privilege protected against disclosure of an internal audit performance

24. Is accident reconstruction data admissible?

Yes, through qualified expert testimony.

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


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

Rule 4:58-1. Time and Manner of Making and Accepting Offer

(a) Except in a matrimonial action, any party may, at any time more than 20 days before the actual trial date, serve on any adverse party, without prejudice, and file with the court, an offer to take a monetary judgment in the offeror's favor, or as the case may be, to allow judgment to be taken against the offeror, for a sum stated therein (including costs). The offer shall not be effective unless, at the time the offer is extended, the relief sought by the parties in the case is exclusively monetary in nature.

(b) If at any time on or prior to the 10th day before the actual trial date the offer is accepted, the offeree shall serve on the offeror and file a notice of acceptance with the court. The making of a further offer shall constitute a withdrawal of all previous offers made by that party. An offer shall not, however, be deemed withdrawn upon the making of a counter-offer by an adverse party but shall remain open until accepted or withdrawn as is herein provided. If the offer is not accepted on or prior to the 10th day before the actual trial date or within 90 days of its service, whichever period first expires, it shall be deemed withdrawn and evidence thereof shall not be admissible except in a proceeding after the trial to fix costs, interest, and attorney's fee. The fact that an offer is not accepted does not preclude a further offer within the time herein prescribed in the same or another amount or as specified therein.

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

Spoliation of evidence in a civil action occurs when relevant evidence is destroyed, concealed, or materially altered causing interference with the proper

The duty to preserve evidence, independent from a court order to do so, arises when there is: (1) pending or probable litigation, (2) knowledge by the party of the existence or likelihood of litigation, (3) foreseeability of harm to the other party, and (4) the evidence is relevant to the litigation. *Aetna Life and Cas. Co.*, 309 N.J. Super. at 366-67.

Where a party violates the duty to preserve evidence, that party is responsible for said violation regardless of whether it was committed intentionally or negligently. *Id.* at 368. Whether the spoliator acted intentionally or negligently does not affect the spoliator’s liability; rather, it is merely a factor to consider when determining the appropriate remedy. *Grubbs v. Knoll*, 376 N.J. Super. 420, 435 (App. Div. 2005).

Spoliation of evidence can result in an adverse trial inference, discovery sanctions, or a separate tort action for fraudulent concealment against the party that caused the spoliation. *Rosenblit*, 166 N.J. at 400-06 (2001). While New Jersey may recognize negligent spoliation of evidence as a separate tort action, New Jersey does not recognize a separate tort action for intentional spoliation. *Id.* at 404-05.

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

There are no caps in place on compensatory damages. There is, however, a cap on punitive damages. The defendant shall not be liable for punitive damages in any action in an amount in excess of five times the liability of that defendant for compensatory damages, or $350,000.00, whichever is greater. N.J. STAT. ANN. § 2A:15-5.14(b).

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

There are no appellate decisions addressing the admissibility of CSA 2010 data. However, all relevant evidence is generally admissible, and thus, if determined to be relevant, this data will be held admissible.

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

Any party may serve on any other party a request to produce electronically stored information. R. 4:18-1(a). The request may specify the form or forms in which electronically stored information is to be produced. R. 4:18-1(b)(1). Sanctions may not be imposed on a party, absent exceptional circumstances, for failing to provide electronically stored information lost as a result of the routine, good faith operation of an electronic information system. R. 4:23-6.
31. **Is the sudden emergency doctrine recognized in the jurisdiction?**

   Yes. The defense may only be used in situations where a driver is confronted by an imminent situation over which he had no control, without fault on his part. *Leighton v. Sim*, 591 A.2d 985 (N.J. App. Div. 1991).

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

   New Jersey evidentiary rules may be used to restrict the use of “reptile theory” arguments at trial. Relevant evidence is evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action. N.J. R. EVID. 401. Relevant evidence may be excluded if its probative value is substantially outweighed by the risk of undue prejudice, confusion of issues, misleading the jury, undue delay, waste of time, or needless presentation of cumulative evidence. N.J. R. EVID. 403. If the plaintiff attempts to present a “reptile theory” argument at trial, the defendant may argue that the evidence or argument is irrelevant and prejudicial to the defendant because it goes beyond the scope of the plaintiff’s damages by including potential harm posed to the community.

   Additionally, evidence of other crimes, wrongs, or acts is not admissible to prove the disposition of a person in order to show that such person acted in conformity therewith. N.J. R. EVID. 404(b). If the plaintiff attempts to introduce “other acts” evidence regarding safety rules and regulations or potential harm to the public, the defendant can argue that it is inadmissible pursuant to Rule 404 and is highly prejudicial to the defendant.

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

   Superior Court, Chancery Division: No limit  
   Superior Court, Law Division, Civil Part: No limit  
   Superior Court, Law Division, Special Civil Part: $15,000  
   Superior Court, Law Division, Special Civil Part, Small Claims Section: $3,000 ($5,000 for security deposit demand cases)

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

   Appointed.