1. Minimum liability limits

For passenger vehicles:

Twenty-five thousand dollars ($25,000.00) because of bodily injury to or death of one person as the result of any one accident;

Fifty thousand dollars ($50,000.00) because of bodily injury to or death of two or more persons as a result of any one accident; and

Ten thousand dollars ($10,000.00) because of injury to or destruction of property of others as a result of any one accident. NMSA 1978, § 66-5-215 (1983).

For motor carriers of property:

Seven hundred fifty thousand ($750,000.00) for motor carriers transporting nonhazardous property;

Five million dollars ($5,000,000.00) for motor carriers transporting hazardous substances, as defined in 49 CRF 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons;

One million dollars ($1,000,000.00) for motor carriers transporting oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101; and

Five million dollars ($5,000,000.00) for motor carriers transporting any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group 1, Hazard Zone A material; or highway route controlled quantities of a Class 7 materials as defined in 49 CFR 173.403. 49 C.F.R. § 387.9.

2. Negligence laws

New Mexico is a pure comparative fault state; contributory negligence has been abolished. NMSA 1978, § 41-3A-1 (1987).

3. Bodily Injury Statute of Limitations


4. Property Damage Statute of Limitations
Four years. NMSA 1978, § 37-1-4 (1953).

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

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

7. **Is there a bodily injury damage threshold?**
   No.

8. **What are the quick rules on Subrogation MP/PIP?**
   - **Medical Payments (MP):** Insurer is entitled to subrogation and reimbursement rights against the insured for medical payments received by the insured. *Jimenez v. Foundation*, 1988-NMSC-052, ¶ 16-17, 107 N.M. 322, 757 P.2d 792.
   - **Personal Injury Protection (PIP):** Coverage unknown / not applicable

9. **Are there no fault laws in the jurisdiction?**
   Not in the transportation context.

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

11. **Is there a seat belt defense?**
    No. *Thomas v. Henson*, 1985-NMSC-010, 102 N.M. 326, 695 P.2d 476; NMSA 1978, § 66-7-373(A) (“Failure to be secured by a child passenger restraint device or by a safety belt as required by the Safety Belt Use Act shall not in any instance constitute fault or negligence and shall not limit or apportion damages.”).

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

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

14. **Is there a UM requirement?**
    Yes, but the requirement can be waived in writing. NMSA 1978, § 66-5-301(C) (1983). If the UM/UIM requirement is not properly waived, UM/UIM coverage will be judicially read into the policy at an amount equal to liability limits. *See Jordan v. Allstate Ins. Co.*, 2010-NMSC-051, 149 N.M. 162, 245 P.3d 1214.

15. **Is there a physical contact requirement?**
    No.

16. **Is there a mandatory ADR requirement?**
Not statewide. Some jurisdictions mandate ADR for certain cases. See, e.g., Rule LR2-603 NMRA (2007).

17. Are agreements reached at mediation enforceable?

Yes. If the mediation parties reach a settlement agreement evidenced by a record signed by the mediation parties, the agreement is enforceable in the same manner as any other written contract. The agreement shall not affect any outstanding court order unless the terms of the agreement are incorporated into a subsequent order. A court or other administrative body may in its discretion incorporate the terms of the agreement in the order or other document disposing of the matter. NMSA 1978, § 44-7B-6 (2007).

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


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

Yes. Pre-judgment interest is collectable at a rate of ten (10) percent from the date the complaint was served, at the judge's discretion. NMSA 1978, § 56-8-4(B) (2004). The decision whether or not to award pre-judgment interest is within the discretion of the trial court, and is reviewed only for abuse of that discretion. Sunnyland Farms, Inc. v. Central New Mexico Elec. Co-op., Inc., 2013-NMSC-017, 301 P.3d 387. Pre-judgment interest awards are discretionary with the trial court after the court considers two factors: (1) whether the plaintiff was the cause of unreasonable delay, and (2) whether the defendant had made a reasonable and timely offer of settlement. NMSA 1978, § 56-8-4(B); Weidler v. Big J Enterprises, Inc., 1998-NMCA-021, ¶ 52, 124 N.M. 591, 953 P.2d 1089; State Farm Fire and Cas. Co. v. Farmers Alliance Mut. Ins. Co., 2004-NMCA-101, 136 N.M. 259, 96 P.3d 1179; Sunnyland Farms, Inc., 2013-NMSC-017; Fort Knox Self Storage, Inc. v. Western Technologies, Inc., 2006-NMCA-096, 140 N.M. 233, 142 P.3d 1.

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

Yes. Post-judgment interest is collectable at a rate of eight and three-quarters (8 3/4) percent annually, unless the judgment is based on tortious conduct, bad faith, or intentional or willful acts, in which case the rate is fifteen (15) percent. NMSA 1978, § 56-8-4(A) (2004).

21. Is there a workers compensation exclusive remedy defense?

Yes. NMSA 1978, § 52-1-9 (1973). However, when an employer intentionally inflicts or willfully causes a worker to suffer an injury that would otherwise be exclusively compensable under the Workers' Compensation Act that employer may not enjoy the benefits of exclusivity, and the injured worker may sue in tort. Delgado v. Phelps Dodge Chino, Inc., 2001-NMSC-034, ¶ 24, 131 N.M. 272, 34 P.3d 1148. Willfulness renders a worker's injury non-accidental when: (1) the worker or employer engages in an intentional act or omission, without just cause or excuse, that is reasonably expected to result in the injury suffered by the worker; (2) the worker or employer expects the intentional act or omission to result in the injury, or has utterly disregarded the consequences; and (3) the intentional act or omission proximately causes the injury. Id. ¶ 26.
22. **Is the doctrine of joint and several liability applicable?**

   Generally, no. The New Mexico Legislature has, however, reinstated joint and several liability with rights of contribution or indemnification in certain circumstances. These circumstances include: (1) intentional tortfeasors; (2) parties who are vicariously liable for the conduct of another, such as a trucking company for its employee driver; (3) parties in the chain of distribution of a defective product; (4) where such an outcome serves public policy, such as parties engaged in inherently dangerous activities; and (5) successive tortfeasors. NMSA 1978, § 41-3A-1 (1987); Saiz v. Belen School Dist., 1992-NMSC-018, 113 N.M. 387, 827 P.2d 102; Lujan v. HealthSouth Rehabilitation Corp, 1995-NMSC-057, 120 N.M. 422, 902 P.2d 1025.

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

   Not in the transportation context. *But see* NMSA 1978, §§ 41-9-1 to -7 (1979), as amended through 2011 (finding self critical analysis privilege applicable only in the medical malpractice context).

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

   Yes, under proper circumstances. *See* Rule 11-703 NMRA.

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

   A plaintiff can recover the reasonable expense of necessary medical care, treatment, and services received, including prosthetic devices and cosmetic aids, and the present cash value of the reasonable expenses of medical care, treatment, and services reasonably certain to be received in the future. UJI 13-1804 NMRA. As a practical matter, plaintiffs attempt to introduce the total bills into evidence, while defendants attempt to limit the evidence to the amount paid. Results vary.

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

   If an offer of settlement made by a claimant is not accepted and the judgment finally obtained by the claimant is more favorable than the offer, the defending party must pay the claimant's costs, excluding attorney's fees, including double the amount of costs incurred after the making of the offer. If an offer of settlement made by a defending party is not accepted and the judgment finally obtained by the claimant is not more favorable than the offer, the claimant must pay the costs, excluding attorney's fees, incurred by the defending party after the making of the offer and shall not recover costs incurred thereafter. Rule 1-068(A) NMRA.

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

   Spoliation of evidence can provide a party with: (1) a separate cause of action for intentional spoliation of evidence; (2) the basis for an award of sanctions against the offending party; and (3) the basis for an adverse inference uniform jury instruction. *See* UJI 13-1650; Restaurant Management Co. v. Kidde-Fenwal, Inc., 1999-NMCA-101, 127 N.M. 708, 986 P.2d 504; Segura v. K-Mart Corp., 2003-NMCA-013, 133 N.M. 192, 62 P.3d 283.

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

   Not in the transportation context. *But see*, e.g., NMSA 1978, § 41-4-19 (2007) (providing damage caps under the Tort Claims Act); NMSA 1978, § 41-5-6 (1992) (providing damages caps under the Medical Malpractice Act).
29. **Is CSA 2010 data admissible?**
   
   Yes, under proper circumstances. See Rule 11-401 NMRA; Rule 11-403 NMRA.

30. **Briefly, does the jurisdiction have any unique rules on electronic discovery?**
   
   No.

31. **Is the sudden emergency doctrine recognized in the jurisdiction?**
   
   No. The New Mexico Supreme Court ruled the sudden emergency doctrine jury instruction was unnecessary, potentially confusing to the jury, and conducive to overemphasizing one party's theory of the case therefore holding UJI Civil 1617 should no longer be used in instructing the jury in a negligence case. *Dunleavy v. Miller*, 1993-NMSC-059, ¶ 2, 116 N.M. 353, 862 P.2d 1212. The court reasoned, “the standard by which the actor's conduct is to be measured remains that of the degree of care that would be exercised by an ordinarily prudent person in order to avoid an unreasonable risk of harm in light of all the surrounding circumstances. The sudden emergency instruction merely directs the jury's attention to one of the circumstances, the emergency, to be considered in evaluating the reasonableness of the actor's behavior.” *Id.* ¶ 17.

32. **Are there any rules prohibiting or limiting the use of reptile theory at trial?**
   
   New Mexico case law expressly prohibits lawyers from making “Golden Rule” arguments. *See Jolley v. Energen Res. Corp.*, 2008-NMCA-164, ¶ 28, 145 N.M. 350, 198 P.3d 376 (nothing with approval the trial judge’s admonishment of counsel for making “Golden Rule” arguments in closing argument); *Jackson v. S.W. Pub. Serv. Co.*, 1960-NMSC-027, ¶ 59, 66 N.M. 458, 349 P.2d 1029 (“[T]he majority rule is that it is improper to ask the jury to place themselves in the position of the Plaintiff.”).

   Under a timely objection, Rules 11-401 NMRA, 11-403, and 11-404 are applicable to prohibiting Reptile Theory arguments. *See Jolley v. Energen Resources Corp.*, 2008-NMCA-164, ¶ 28, 145 N.M. 350, 198 P.3d 376. For example, in *Blevins v. Cessna Aircraft Co.*, the defendant contended that several arguments, including an improper “Golden Rule” remark, by Plaintiff’s counsel “aroused undue passion and prejudice on the part of the jury, resulting in an excessive verdict.” 728 F.2d 1576, 1581 (10th Cir. 1984). The Tenth Circuit examined the arguments made by all counsel, finding that plaintiff’s counsel “made other improper appeals for sympathy and some to prejudice that clearly should not have been made.” *Id.* “However, considering the arguments as a whole, and the lack of any timely objection,” the court afforded the trial judge considerable deference and found no reversible error. *Id.* (citing *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 140, 238-40 (1940). “Counsel cannot as a rule remain silent, interpose no objections, and after a verdict has been returned seize for the first time on the point that the comments to the jury were improper and prejudicial.” *Id.* (citation omitted).

33. **What are the jurisdictional limits of the jurisdiction’s civil courts-i.e. Small Claims, District Court, Superior Court?**
   
   The New Mexico judiciary consists of a Supreme Court, Court of Appeals, District Courts and Magistrate courts. New Mexico does not have small claims courts. *See NMSA 1978, 34-8-1 to -13 Repealed (1979). Metropolitan courts have jurisdiction over civil actions where the
sum sought or debt owed does not exceed $10,000. NMSA 1978, § 34-8A-New Mexico district courts do not have a jurisdiction limit.

34. Are state judges elected or appointed?

New Mexico employs a hybrid system for selecting judicial vacancies. When a judicial position is available a judicial nominating committee for the respective court (Supreme Court, Court of Appeals, District or Metropolitan) recommends qualified candidates to the governor. The governor then appoints a judicial candidate from the list of candidates provided by the committee. See NM Const. Art. VI § 35-37. There are fifteen judicial nominating committees for the various levels of courts in New Mexico. Id. After the governor has appointed a candidate to the vacancy, the candidate will serve until the next general election. See N.M. Const. Art IV § 35. At that time the candidate must run in a contested partisan election. The winner of the contested election will hold the judicial office until the expiration of the original term. Id. When the office term expires the judge will become eligible for nonpartisan retention elections. N.M. Const. Art. VI § 33. See Leo M. Romero, Judicial Selection in New Mexico: A Hybrid of Commission Nomination and Partisan Election, 30 N.M. L. REV. 177 (Spring 2000).