1. **Minimum liability limits**

   $25,000 because of bodily injury to one person in any one accident, $50,000 because of bodily injury or death of two or more persons in one accident and $25,000 because of injury to or destruction of property of others in any one accident.

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

   North Dakota is a modified comparative fault state. Plaintiff’s claim is barred if their fault is 50% or greater.

3. **Bodily Injury Statute of Limitations**

   6 years.

4. **Property Damage Statute of Limitations**

   6 years.

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

   No.

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

   No.

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

   Only for PIP benefits, the threshold is $2,500.

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

   No subrogation for either MP or PIP.
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?
    This is an unsettled issue in North Dakota. The statute requiring seatbelt use also provides that evidence of violation of the statute is not to be used in any other proceeding other than for the prosecution of the offense. However, the courts have not settled the issue of whether nonuse of a seatbelt is evidence of comparative negligence. N.D.C.C. § 39-21-41.4; But see Tessier v. American Family Mut. Ins. Co., Not Reported in F.Supp.2d, 2013 WL 1290229 (D.N.D. 2013).

12. Is there a last clear chance defense?
    No.

13. Is there an assumption of risk defense?
    Considered as part of comparative fault.

14. Is there a UM requirement?
    Yes.

15. Is there a physical contact requirement?
    Yes.

16. Is there a mandatory ADR requirement?
    No.

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

18. What is the standard of review for a new trial?
    Standard for reviewing order denying motion for a new trial is, after viewing evidence in light most favorable to verdict, whether there is sufficient evidence to justify verdict.

19. Is pre-judgment interest collectable? If so, at what rate?
    Yes. In the absence of specific contractual right of interest, pre-judgment interest must be calculated at prescribed legal rate, which is currently 6%.
20. **Is post judgment interest collectable? If so, at what rate?**

   Interest is payable on judgments entered in the courts of this state at the same rate as is provided in the original instrument upon which the action resulting in the judgment is based, which rate may not exceed the maximum rate provided in § 47-14-09.

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

   Yes.

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

   No.

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

   Yes.

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

   Yes.

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

   Unknown. The recent trend is for trial courts to allow admission of both figures, so many times plaintiff’s counsel will stipulate to the reduced amount.

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

   Allowed under rule 68 of the North Dakota Rules of Civil Procedure.

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

   Sanctions, including summary judgment, may be appropriate in situations of spoliation of evidence, or where the plaintiff has failed to provide key evidence in an action.

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

   No.

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

   Unknown.

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


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

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

   Statements meant to inflame the jury go beyond summarizing the evidence and are designed to appeal to emotion and prejudice. These kinds of arguments are improper as they cut to the heart of juror independence. Lawyers are allowed to present cases vigorously, but if they make statements meant only to inflame the jury, the appellate court may reverse and order a new trial if they find the improper argument had some effect upon the verdict.

   This issue has not been directly addressed in North Dakota. However, statements meant to inflame the jury are improper and, if not excluded, may lead to reversal on appeal. Although these issues have not been directly addressed in North Dakota, North Dakota Rules of Evidence 401, 403, and 404 are all generally applicable when the plaintiff uses the reptile theory at trial. The North Dakota rules, like the federal rules, allow the court to exclude unduly prejudicial evidence, as well as evidence of prior bad acts.

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

   Small claims court jurisdiction is confined to cases for recovery of money, or the cancelation of any agreement involving material fraud, deception, misrepresentation, or false promise, so long as the value of the agreement or the amount claimed by the plaintiff or defendant does not exceed fifteen thousand dollars.

34. Are state judges elected or appointed?

   Judges are elected to six year terms. However, the governor fills vacancies by selecting a replacement from a list of candidates provided by a judicial nominating committee.