1. **Minimum Liability Limits**

Ohio requires a minimum for Bodily Injury Liability Coverage of $25,000 per person injured in any one accident, and $50,000 for all persons injured in any one accident. R.C. § 4509.01(K). The required minimum for Property Damage Liability is $25,000 for injury to or destruction of property of others in any one accident. Id.

2. **Negligence Law**

Ohio has adopted a modified comparative negligence standard, whereby a plaintiff’s contributory fault may bar it from recovery if the contributory fault is greater than the combined tortious conduct of all persons from whom the plaintiff seeks recovery in the action and of all other persons from whom the plaintiff does not seek recovery in the action. R.C. § 2315.33.

3. **Bodily Injury Statute of Limitations**

An action for bodily injury must be brought within two years after the cause of action accrues. R.C. § 2305.10(A).

4. **Property Damage Statute of Limitations**

An action for injury to personal property must be brought within two years after the cause of action accrues. R.C. § 2305.10(A).

5. **Are punitive damages insurable?**
No. Ohio prohibits coverage for punitive damages in automobile or motor vehicle insurance policies. R.C. § 3937.182(B).

6. **Is there an intra-family immunity defense?**

No. In 1985, after the Ohio Supreme Court abolished spousal-tort immunity, the Court suggested that insurance companies use “intra-family” or “resident-relative” exclusions to reduce the cost of insurance premiums. See *Kelly v. Auto-Owners Ins. Co.*, 2006 Ohio 3599, ¶ 11 (Ohio App. 1st Dist. 2006) citing *Shearer v. Shearer*, 18 Ohio St.3d 94, 100-101, 480 N.E.2d 388 (1985).

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

Ohio, a tort state, not a “no fault” state, lacks traditional verbal or monetary thresholds for bodily injury actions. Damage caps are found within R.C. § 2323.43 (see Question 28 for damage cap specifics).

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


9. **Are there no fault laws?**

Ohio is a tort state, not a no fault state.

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

When multiple insurance policies provide coverage for the same risk and each policy contains an excess clause, the insurers are jointly liable in proportion to the amount of insurance provided by their respective policies. *Buckeye Union Ins. Co. v. State Auto. Mut. Ins. Co.*, 49 Ohio St.2d 213, 216-18, 361 N.E.2d 1052 (1977). An insurance policy’s excess clause will be given effect over another policy’s competing “escape” or “no liability” clause purporting to exclude coverage when other liability insurance is available. *State Farm Mut. Auto. Ins. Co. v. Home Indem. Ins. Co.*, 23 Ohio St.2d 45, 261 N.E.2d 128 (1970).

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

Drivers and front-seat passengers must wear an occupant restraining device. R.C. § 4513.263(B). Additionally, children younger than four years old or weighing less than forty pounds are required to be secured in an approved child safety-seat. R.C. § 4511.81. A person’s failure to wear a seat belt, or his failure to ensure that each required passenger is wearing a seatbelt, shall not be considered by the fact finder in a tort action as contributory
negligence. R.C. § 4513.263(F)(1). It may, however, be considered to diminish non-economic damages. *Id.*

Pursuant to statute, Ohio courts have consistently held that the nonuse of seatbelts is inadmissible in negligence cases to show that damages would have been lesser if a seatbelt had been worn by an injured occupant. *See Derenberger v. Miller*, 3rd Dist. No. 3-05-24, 2006-Ohio-4186, ¶ 8 (Aug. 14, 2006). The Ohio Supreme Court, however, has noted a statutory exception, whereby evidence of a plaintiff’s failure to wear a seatbelt can be admitted in cases against manufacturers for defects in product design. *Gable v. Gates Mills*, 103 Ohio St.3d 449, 816 N.E.2d 1049 (2004); R.C. § 4513.263(F)(2).

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


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

No. The defense of implied assumption of risk has been merged with the defense of contributory negligence. *Anderson v. Ceccardi*, 6 Ohio St.3d 110, 451 N.E.2d 780 (1983). Ohio’s current statute reads: “contributory fault of a person does not bar the person . . . from recovering damages that have directly and proximately resulted from the tortious conduct of one or more other persons, if the contributory fault of the plaintiff was not greater than the combined tortious conduct of all other persons from whom the plaintiff seeks recovery . . .” R.C. § 2315.33. “Contributory fault,” as used in R.C. 2315, means “contributory negligence, other contributory tortious conduct, or except as provided with respect to product liability claims . . ., express or implied assumption of the risk.” R.C. § 2307.011.

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

No. Motor vehicle policies may, but are not required to, include UM/UIM coverage. R.C. § 3937.18(A).

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

No. The Ohio Supreme Court held that a physical contact requirement as a prerequisite to recovery violates public policy. *Girgis v. State Farm Mut. Auto. Ins.*, 75 Ohio St.3d 302, 305, 662 N.E.2d 280 (1996). Rather, the test to be applied is the corroborative evidence test, which allows the claim to go forward if there is independent third-party testimony that the negligence of an unidentified vehicle was a proximate cause of the accident. *Id.* at paragraph 2 of syllabus.

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

No. There is not a jurisdictional mandate for parties to enter into arbitration or mediation, but specific courts or judges may nevertheless require them to do so. Provisions requiring arbitration between the parties are entirely voluntary.
17. Are agreements reached at a mediation enforceable?

Yes. Absent any fraud, duress, overreaching, or undue influence, parties are bound by the terms of their settlements agreements reached during mediation. Feathers v. Tasker, 9th Dist. 26318, 2012-Ohio-4917.

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

The trial court has the sound discretion in granting a motion for new trial. The trial court may vacate a judgment and order a new trial if it finds that the verdict on which the judgment was entered was not substantiated by the weight of the evidence. Ohio Civ. R. 59(A)(6).

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

Pre-judgment interest is collectable from the date the money is due and payable until the date of judgment. R.C. § 1343.03(A). The maximum interest rate is 8.0%; however this is only applied in limited circumstances. R.C. § 1343.01. The Ohio Tax Commission sets the annual interest rate based on the federal-short term rate. R.C. § 5703.47. The current interest rate for 2016 is 3.0%. http://www.tax.ohio.gov/ohio_individual/individual/interest_rates.aspx

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

Yes, post-judgment interest is calculated from the date of the judgment at the rate determined by R.C. § 5703.46. The rate remains the same until the judgment is paid in full. The current interest rate for 2016 is 3.0%. http://www.tax.ohio.gov/ohio_individual/individual/interest_rates.aspx

21. Is there a workers compensation exclusive remedy defense?

Outside of intentional tort claims, an employer who participates in Ohio’s workers compensation is immune from liability for an employee’s injury that arises from his employment. R.C. § 4123.74. An employee’s receipt of workers compensation benefits does not preclude him from recovering under common law for intentional acts by the employer. Kaminski v. Metal & Wire Prods. Co., 2010-Ohio-1027, 125 Ohio St. 3d 250, 927 N.E.2d 1066. This is limited to circumstances where the intentional act by the employer caused the harm to the employee. Stetter v. R.J. Corman Derailment Servs., L.L.C., 2010-Ohio-1029, 125 Ohio St. 3d 280, 927 N.E.2d 1092.

Ohio recognizes a separate cause of action for employer liability for an intentional tort. R.C. § 2745.01. An employer may be liable for the damages resulting from an intentional tort if the employee can prove that the employer acted with the intent to injury or knowing that the injury was substantially certain to occur.

22. Is the doctrine of joint and several liability applicable?
Ohio follows a modified joint and several liability doctrine. When there are multiple defendants, any defendant who is found to be more than 50% at fault is subject to the doctrine of joint and several liability for economic damages. Defendants who are less than 50% at fault are not subject to the doctrine of joint and several liability and, but instead are proportionally liable with their fault for economic damages. For non-economic damages, all defendants who are found to be at-fault are proportionally liable to the plaintiff. If no defendant is more than 50% at fault, then all defendants are proportionally liable for economic and non-economic damages. However, if any defendant acted intentionally, he is still subject to the doctrine of joint and several liability for economic damages. R.C. § 2307.11.

23. Is there a self-critical analysis privilege?

The self-critical analysis privilege has not yet been recognized in Ohio. Geggie v. Cooper Tire & Rubber Co., 2005-Ohio-4750, ¶ 30 (Ct. App.).

24. Is accident reconstruction data admissible?

Yes. Expert testimony is generally admissible of the proponent demonstrates that the expert is qualified by “specialized knowledge, skill, experience, training, or education regarding the subject matter” and the “testimony is based on reliable, scientific, technical, or other specialized information.” Ohio Evid. R 702. An expert may base his opinion or interference on facts or data perceived by him or admitted at court. Ohio Evid. R. 703. Further, after disclosing the underlying facts or data, the expert may give his opinion or inference. Ohio. Evid. R. 705. The accident reconstruction data may be admitted if the proponent shows that the expert is qualified, the testimony is based on reliable information, and his opinions are based on facts or data perceived by him or admitted into evidence. Fry v. King, 2011-Ohio-963, 192 Ohio App. 3d 692, 950 N.E.2d 229.

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

The general collateral-source rule excludes evidence of benefits from sources other than the tortfeasor. Robinson v. Bates, 2006-Ohio-6362, ¶ 17, 112 Ohio St. 3d 17, 23, 857 N.E.2d 1195, 1200. However, in 2005, the statutory collateral-source rule was enacted. R.C. § 2315.20. Under the statute, evidence of collateral benefits is admissible except in specific situations (for example, when the source of the payment has a contractual right to subrogation). This rule does not exclude evidence of a write-off because this amount is not paid by a third party and the evidence of the write-offs allows the jury to determine the actual amount of medical expenses sustained by the Plaintiff. Jaques v. Manton. 928 N.E.2d 434 (Ohio 2010).

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

Ohio has not adopted the Federal Rule allowing the use of an offer of judgment as the basis of costs. In Ohio, if an offer of judgment is refused by the opposing party, the offering party may not file the offer with the court in a proceeding to determine costs. Ohio Civ. R. 68.
27. **What is the jurisdiction’s rule on spoliation of evidence?**

Ohio recognizes a separate tort for interference with or destruction of evidence. The plaintiff must prove:

(1) pending or probable litigation involving the plaintiff,
(2) knowledge on the part of defendant that litigation exists or is probable,
(3) willful destruction of evidence by defendant designed to disrupt the plaintiff's case,
(4) disruption of the plaintiff's case, and
(5) damages proximately caused by the defendant's acts.”

*Smith v. Howard Johnson Co.*, 1993-Ohio-229, 67 Ohio St. 3d 28, 29, 615 N.E.2d 1037, 1038

While there is no automatic imposition of sanctions for spoliation of evidence, the court has the discretion to impose sanctions if the adverse party’s failure to produce the evidence was willful and there was prejudice. *Barker v. Wal-Mart Stores, Inc.*, 2001-Ohio-8854 (Ct. App.).

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

In a tort action based on injury or loss to person or property, there are no caps on economic damages. The non-economic loss cannot be greater than $250,000 or 3 times the economic loss, for a maximum of $350,000 per plaintiff or a maximum of $500,000 for each incidence that is the basis for the tort. R.C. § 2315.18(B).

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

The Ohio courts have not addressed the issue of admissibility of CSA 2010 data. The courts currently analyze the admissibility on a case-by-case basis using general evidence principals.

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

A party is not required to produce electronically stored information is the production of the information would impose an undue burden of expense. However, even if the party is able to show an undue burden or expense, the court can order the production if the requesting party shows good cause. The court considers four factors in determining whether there is a good cause to require production:

(1) Whether the discovery is unreasonably cumulative or duplicative;
(2) Whether the information can be acquired from another source;
(3) Whether the requesting party had sufficient opportunities to obtain the information; and
(4) Whether the burden or expense outweighs the benefit.

Ohio Ev. R. 26(b)(4).

It is important to check the local rules for the Court as many of the Ohio courts have local rules on electronic discovery. For example, Cuyahoga County requires parties to meet and confer
regarding electronically stored information and has specific rules on preservation and production of electronically stored information. Cuyahoga County Common Pleas Court Local Rule 21.3.

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

Ohio recognizes a sudden emergency defense. In order for a motorist to avoid liability for failing to comply with a safety statute, he must show that something outside of his control or an emergency that he did not create made it impossible for him to comply with that statute. To establish this defense, the “proponent must demonstrate, by a preponderance of the evidence, that compliance with the statute was rendered impossible by the existence of a sudden emergency, arising without his or her fault and because of circumstances over which he or she had no control, and that he or she exercised such care as a reasonably prudent person would have under the circumstances.” *Szilagyi v. Wynn*, 2012-Ohio-6132, ¶ 26 (Ct. App.)

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

There have been no Ohio decisions prohibiting or limiting the use of the reptile theory at trial. However, the reptile theory may be attacked through the use of Ohio Rules of Evidence. Otherwise relevant evidence, may be excluded if the “probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury.” Ohio Ev. R. 403(A). Evidence is relevant is if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Ohio Ev. R. 401. The opposing party can argue that the evidence is not relevant and that the evidence is unfairly prejudicial.

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

Ohio Small Claims Courts have jurisdiction over claims under $3,000, exclusive of interest and costs. Ohio Municipal Courts have jurisdiction over claims that are under $500 and not within the exclusive jurisdiction of the Court of Claims. Ohio Courts of Common Pleas have jurisdiction over claims that are over $500, but under $15,000 and that are not within the exclusive jurisdiction of the Court of Claims. The Court of Claims has exclusive jurisdiction over claims for damages against the states. R.C. § 2305.01.

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

State judges in Ohio are elected.