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## Alabama

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage or lack thereof is discoverable in Alabama. Rule 26(b)(3) of the Alabama Rules of Civil Procedure provides that “a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.” In addition, civil defendants routinely request and obtain information regarding a plaintiff’s insurance coverage before trial.

## ALASKA

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage is discoverable before trial in Alaska under the state's civil procedure rules. Specifically, Alaska Rule of Civil Procedure 26(a) requires parties to disclose, without awaiting a discovery request, any insurance agreement under which an insurer may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment. This mandatory disclosure includes:

- The existence of insurance coverage
- The identity of the carrier
- The policy limits
- Any umbrella or excess coverage that may apply

Alaska courts have consistently upheld the discoverability of insurance policies in civil litigation. In *Miller v. Harpster*, the Alaska Supreme Court affirmed that insurance coverage is relevant and discoverable, noting that such information helps plaintiffs assess whether to prosecute or settle a case and does not unfairly prejudice the defense at trial.

## Arizona

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Ariz. Civ. Proc. Rule 26.1(a)(10) requires that each party must disclose the following for any insurance policy or agreement under which may be liable to satisfy part or all of a judgment:

- A. A copy--or if no copy is available, the existence and substance--of the insurance policy, indemnity agreement, or suretyship agreement;
- B. A copy--or if no copy is available, the existence and basis--of any disclaimer, limitation, or denial of coverage or reservation of rights under the insurance policy, indemnity agreement, or suretyship agreement; and
- C. The remaining dollar limits of coverage under the insurance policy, indemnity agreement, or suretyship agreement.

#### Supplemental Disclosures:

- A supplemental disclosure regarding the remaining dollar limits of coverage upon a written request propounded by another party made within 30 days of a settlement conference, mediation, or trial.
- Within 10 days of service of the written request, the party must supplement its disclosure of the remaining dollar limits of coverage.

#### Limitations:

- The existence and amount of insurance coverage is otherwise not discoverable by interrogatories under Ariz. Civ. Proc. Rules 26(b) and 33 because it is not "relevant to the subject matter involved" to the discovery of facts either (1) to use in the trial, or (2) to use it as a lead to information for use in a trial." *Di Pietruntonio v. Superior Court In and For Maricopa County*, 84 Ariz. 291, 298 (Ariz. 1958); *See Hastings v. Thurston*, 100 Ariz. 302 (1966) (affirmed).



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## California

### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. California Code of Civil Procedure §2017.210 provides: “A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage. A party may also obtain discovery as to whether that insurance carrier is disputing the agreement's coverage of the claim involved in the action, but not as to the nature and substance of that dispute. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.”

Generally, this is one of the first questions propounded and can be developed from the simple form interrogatories.



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## COLORADO

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes - in Colorado, C.R.C.P.26(b) allows discovery regarding any matter, not privileged, that's relevant to the claim. Information within the scope of discovery need not be admissible in evidence to be discoverable. This includes questions as to the existence of liability insurance and its policy limits. *Lucas v. District Court of County of Pueblo*, 140 Colo. 510, 345 P.2d 1064 (1959).



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## Connecticut

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Pattern discovery requires disclosure of primary and excess coverages and requires production of the policy. We typically produce a declarations page with premium information redacted.

## Delaware

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Under 21 *Del.C.* § 2907, a Delaware attorney representing an injured person or an injured person that is not represented can, prior to filing a civil action, request in writing that the insurer disclose the bodily injury limits of liability of any motor vehicle liability policy. The requesting party must “provide the insurer with the date of the motor vehicle accident, the name and last known address of the alleged liable party if it has been reported to the requesting party, a copy of the police report, if any, and the claim number, if available.” 21 *Del.C.* § 2907(b). The requesting party must further “submit to the insurer the injured person's medical records, medical bills, and wage-loss documentation, pertaining to the claimed injury and supporting the damage.” 21 *Del.C.* § 2907(c). “If the total of the medical bills and wage losses submitted equals or exceeds \$12,500, the insurer shall respond in writing within 30 days of receipt of the request, and shall disclose the bodily injury limits of liability at the time of the accident of all its motor vehicle liability policies, regardless of whether the insurer contests the applicability of the policy to the injured person's claim.” 21 *Del.C.* § 2907(d). This disclosure is not an admission that the injury is subject to the policy. 21 *Del.C.* § 2907(e).

## District of Columbia

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

DC ST § 31-2403.01 governs the discoverability of insurance before trial. The statute provides that the insurer must provide documentation regarding coverage if after a claimant makes a written claim for compensation or damages and submits required documents.<sup>iv</sup>

A claimant must provide the date of the vehicle accident, the name and last known address of the alleged tortfeasor, a copy of the accident report (if available), the insurer's claim number (if available), and records of health care treatment and bills related to injuries caused by the accident. If the claim involves a decedent, additional documents will be required.

Once the insurer receives a written claim along with required documents, it must respond in writing within 30 days, the insurer must disclose the limits of coverage, of all policies, regardless of whether the insurer contests the applicability of the policy to the claim. Additionally, disclosure does not constitute an admission of liability or a waiver of any policy terms or defenses.

However, information regarding the insurance policy disclosure is not admissible as evidence at trial.

## Florida

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, this information is discoverable in Florida. In fact, under recent amendments to Florida's Rules of Civil Procedure, litigants in Florida state court matters have to serve initial disclosures, which includes a disclosure of insurance coverage similar to federal court requirements.

Florida Rule of Civil Procedure 1.280(a)(1)(D) requires a party to produce "a copy of any insurance policy or agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment."

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## Georgia

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. In Georgia, insurers providing liability or casualty coverage who may be liable to pay all or part of a claim must provide “under oath, of a corporate officer or the insurer’s claims manager stating with regard to each known policy of insurance issued by it, including excess or umbrella insurance, the name of the insurer, the name of each insured, and the limits of coverage” within 60 days of receiving written request for such information from a claimant.<sup>xxiii</sup> Insurers may provide a copy of the declaration page of each such policy in lieu of providing such information.<sup>xxiv</sup> In addition, the insured must disclose to the claimant or the claimant’s counsel “each known insurer which may be liable to the claimant upon such claim” within 30 days of receiving a written request from the claimant.<sup>xxv</sup>

In discovery, a “party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.”<sup>xxvi</sup>

Moreover, pursuant to Georgia’s recent tort reform legislation, evidence of plaintiffs’ public and private health insurance is now admissible to show the reasonable value of medical care.<sup>xxvii</sup> Whereas previously Georgia’s collateral source rule barred defendants from presenting evidence that plaintiffs received payment for medical expenses from health insurers,<sup>xxviii</sup> defendants may now produce evidence of the amount necessary for plaintiffs to satisfy their medical expenses.<sup>xxix</sup> That said, plaintiffs will still be able to blackboard the total amount charged for medical expenses.<sup>xxx</sup> In essence, defendants are now permitted to rebut the plaintiff’s charged medical expenses with evidence of what will be, or could be, paid by third parties such as insurance providers and other entities.<sup>xxxi</sup>

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## Idaho

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, the Idaho Rules of Civil Procedure allow parties to “obtain discovery of the existence and contents of any insurance agreement under which any insurer may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.”<sup>vi</sup> However, insurance information is not admissible at trial to prove the defendant’s negligence, although it may be admitted for other purposes.<sup>vii</sup>

## Illinois

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage is generally discoverable in Illinois before trial.

In Illinois, “it is the established public policy...to permit pretrial discovery on a defendant’s liability insurance policy...” *Manns v. Briell*, 349 Ill. App. 3d 358, 365 (2004); *see also People ex rel. Terry v. Fisher*, 12 Ill. 2d 231, 238-39 (Ill. 1957) (“The presence or absence of liability insurance is frequently the controlling factor in determining the manner in which a case will be prepared for trial...it would seem to be relevant, if not indispensable, that plaintiff’s attorney have knowledge of the existence of insurance in order to prepare for the case he has to meet and be apprised of his real adversary”).

In some cases, insurance coverage is not merely discoverable, the existence of insurance must be disclosed. In all cases subject to mandatory arbitration, and civil actions seeking money damages less than \$50,000, the parties must make initial disclosures including “The existence, location, custodian, and general description of any tangible evidence or documents that the disclosing party plans to use at trial and relevant insurance agreements.” Ill. Sup. Ct., R. 222.

## Indiana

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, pursuant to Indiana Rules of Trial Procedure 26(B)(2), insurance agreements (or lack thereof) are discoverable in Indiana before trial.

However, it is important to note that generally, pursuant to Indiana Rules of Trial Procedure 26(B)(1), parties are not entitled to privileged information unless, pursuant to Indiana Rules of Trial Procedure 26(B)(3), there is a "showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means..." Ind. R. Trial P. 26(B)(3).

## Iowa

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

In Iowa, parties may discover the existence and the terms of insurance coverage before trial, in addition to the required initial disclosures pursuant to Iowa Rule of Civil Procedure 1.500(1)(a)(4). In particular,

a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.

Iowa R. Civ. P. 1.503(2) (2025).

However, “an application for insurance shall not be treated as part of an insurance agreement.” *Id.* Information regarding the existence of an insurance agreement is generally not admissible in evidence at trial. *Id.*

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## Kansas

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage (or lack thereof) is discoverable in Kansas before trial. A party may obtain discovery of the existence and contents of any insurance agreement under which an insurance business may be liable to satisfy part or all of a possible judgment. See K.S.A. § 60-266.

## Kentucky

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, the existence of insurance coverage (or lack thereof) is generally discoverable in Kentucky before trial. Kentucky Rule of Civil Procedure CR 26.02(2) titled “Insurance Agreements,” states as follows:

A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial....

CR 26.02(2).

Parties may conduct discovery regarding the existence and contents of insurance agreements early in the case at the commencement of discovery. However, while insurance information is discoverable, it is generally not admissible as evidence at trial to prove negligence. Further, generally, communications between an insured and insurer, particularly those made in anticipation of litigation, are confidential and protected as an extension of the attorney-client privilege. See *Asbury v. Beerbower*, 589 S.W.2d 216 (Ky. 1979). Insurance coverage information may be admissible in personal injury protection (PIP)/basic reparations benefits (brb), underinsured motorist, uninsured motorist, and bad faith cases.



## Louisiana

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes — under Louisiana law, the existence and contents of relevant insurance policies are discoverable once litigation is filed.

Under Louisiana Code of Civil Procedure Article 1423, any party may seek discovery of an insurance agreement that could satisfy part or all of a judgment or indemnify a party. Article 1422 broadly permits discovery into any matter not privileged that is relevant to the subject matter of the litigation, or which may lead to admissible evidence.

Pre-litigation disclosure of insurance coverage is not required in Louisiana (i.e., before a lawsuit is filed). Once a suit is filed, parties may compel production of insurance policies and coverage details as part of regular discovery.

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## Maine

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage (or lack thereof) is discoverable prior to trial and even before a suit is filed before a Court. 24-A M.R.S. § 2164-E requires that upon a written request “by a claimant or the claimant’s attorney, an insurer doing business in this State shall provide the claimant or the claimant’s attorney with liability coverage limits of that insurer’s insured.”

The insurer must provide the coverage limits within sixty (60) days of receipt. If the insurer fails to comply with the statute’s mandate, it is subject to a \$500.00 fine, plus reasonable attorney’s fees and expenses incurred in obtaining the liability coverage limits. *Id.*

## Maryland

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage and policy limits are discoverable before trial.

Discovery of insurance coverage and policy limits are governed by MD Code, Courts and Judicial Proceedings, § 10-1102, which allows a claimant to obtain documentation from an insurer regarding applicable limits of coverage in any automobile insurance policy.

To obtain information from an insurer regarding coverage, claimants must first file a written tort claim and provide certain documentation including the date of the alleged tort; the name and last known address of the alleged tortfeasor; a copy of any vehicle accident report, police report, or other official report concerning the alleged tort (if available); the insurer's claim number (if available); and a letter from an attorney admitted to practice law in the State certifying that the attorney has made reasonable efforts to investigate the underlying facts of the claim and, based on the attorney's investigation, the attorney reasonably believes that the claim is not frivolous.<sup>viii</sup> Where the claimant is the estate of a decedent who died as a result of an automobile incident, the claimant must provide further documentation regarding the decedent.<sup>ix</sup>

However, in *Morris v. Weddington*, the Appellate Court of Maryland held that evidence regarding the defendant's issuance or lack of insurance is generally inadmissible in trial.<sup>x</sup>

## Michigan

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Availability or lack of insurance coverage must be disclosed by each party within weeks of filing the Complaint or responsive pleadings.<sup>viii</sup>

- Without awaiting a discovery request, all parties must disclose the existence and contents of an insurance agreement which may satisfy all or part of a judgment.
- Insurance coverage must be disclosed by the defendant, counterclaimant, cross-claimant or third-party complainant before the later of:
  - 14 days after plaintiff's mandatory initial disclosures are filed (plaintiff states the factual basis of their claims, legal basis of their claims, possession of ESI, knowledge of ESI in others' possession, computation of damages); or
  - 28 days after filing your Answer

## Minnesota

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, Minnesota law requires parties to disclose insurance information to the other parties in an action. Minnesota Rule of Civil Procedure 26.01 governs the required disclosures a party must provide to the other parties without awaiting a discovery request. Minnesota Rule of Civil Procedure 26.01(a)(1)(D) explicitly requires a party to provide the other parties “for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.”

Further, Rule 26.02(c) states, “In any action in which there is an insurance policy that may afford coverage, any party may require any other party to disclose the coverage and limits of such insurance and the amounts paid and payable thereunder and, pursuant to Rule 34, may obtain production of the insurance policy; provided, however, that this provision will not permit such disclosed information to be introduced into evidence unless admissible on other grounds.”

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## Mississippi

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

The existence and content of insurance agreements or lack of insurance is discoverable in Mississippi state and federal courts under Rule 26.

## Missouri

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Under Missouri Rule 56.01(b)(4), “[a] party may obtain discovery of the existence and contents, including production of the policy and declaration page, of any insurance agreement which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse payments made to satisfy the judgment.” Mo. SUP. CT. R. 56.01(b)(4).



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## MONTANA

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes – in Federal Court the Preliminary Pretrial Disclosures requires the production of any insurance agreement. Montana Local Rule 16.2(b)(1)(K). Likewise in Montana State District Courts insurance, the lack thereof and any Reservation of Rights related thereto is discoverable.



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## Nebraska

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

The Nebraska Court Rules explicitly allow for discovery of “the existence and contents of any insurance agreement under which an insurance business may be liable to satisfy part or all of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.” NEB. CT. R. Disc. § 6-326(b)(2). However, the insurance agreement is not by reason of disclosure admissible in evidence at trial. *Id.*

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## Nevada

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage (or lack thereof) is discoverable before trial in Nevada. Before the discovery period opens, parties are required to provide certain basic information to the opposing party, pursuant to Nevada Rules of Civil Procedure (N.R.C.P.) 16.1(a). Initial disclosures are required, without awaiting a discovery request, at or within 14 days after the Rule 16.1(b) conference, unless otherwise stipulated or ordered by the court. Mandatory disclosure of insurance agreements benefits all parties by serving as the basis of discovery and streamlining the process of determining what discovery is required and should be obtained.

Specifically, N.R.C.P 16.1(a)(1)(A)(v) mandates the disclosure of insurance agreements, including any disclaimer or limitation of coverage or reservation of rights under these agreements. Parties must disclose any insurance agreement under which an insurer may be liable to satisfy all or part of a possible judgment or to indemnify or reimburse payments made to satisfy the judgment.

N.R.C.P 16.1(a)(1)(D) provides the initial disclosure timeline for parties served or joined later. N.R.C.P 16.1(a)(1)(E) emphasizes that parties must make initial disclosures on information that is reasonably available at the moment. A party is not relieved of its disclosure obligations due to incomplete investigation, objections to the adequacy of the opposing party's disclosures, or absence of disclosures from the opposing party.

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## New Hampshire

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. While there is no *pre-suit* obligation to disclose available insurance and/or insurance limits, disclosure is mandated in tort cases after suit is filed, RSA 498:2-a, and disclosure of any insurance agreement or policy for “inspection and copying” is required by the Automatic Disclosures mandated in Superior Court Rule 22(a)(4). In practice, that requirement is met by disclosure of the applicable declarations page from the insurance policy.

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*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

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Insurance information, including policy limits, is discoverable under N.J.S.A. 39:6A-13.2, N.J.S.A. 39:6B-1.1, and Court Rule 4:10-2(b). Courts have emphasized that while such information is not admissible at trial to prove liability, it is relevant for settlement and litigation strategy. *See Liberty Mut. Ins. Co. v. Borgata Hotel Casino & Spa*, 456 N.J. Super. 471 (Law Div. Oct. 27, 2017), which underscored limitations on pre-suit discovery absent risk of lost evidence.



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## New Mexico

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage, or the lack thereof, is discoverable prior to trial. Indeed, New Mexico's Rules of Civil Procedure require disclosure in the course of litigation when asked, and not just of the declarations page—the entire policy of insurance is unquestionably discoverable.



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## North Carolina

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage is discoverable in North Carolina before trial as part of pretrial discovery under N.C. R. Civ. P. 26(b)(2), which expressly allows discovery of insurance agreements under which an insurer might be liable to satisfy part or all of a judgment that may be entered in the action, or to indemnify or reimburse for payments made to satisfy the judgment.

This rule applies even if the insurance agreement itself is not admissible at trial.

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## North Dakota

### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage (or lack thereof) is discoverable before trial in North Dakota under **Rule 26(b)(2) of the North Dakota Rule of Civil Procedure**.

A party may obtain discovery regarding the existence and contents of any insurance agreement under which an insurer may be liable to satisfy all or part of a judgment.

Although insurance information is discoverable, it is not automatically admissible at trial. **Under rule 411 of the North Dakota Rule of Evidence**, evidence of insurance cannot be admitted to prove negligence or wrongdoing, but it may be admitted for other limited purposes, like showing a witness's bias. The required disclosure extends to all relevant coverage, including automobile and umbrella policies.

The discoverability of a potential coverage gap depends on the type of claim and the insurance involved. In North Dakota, it operates a monopolistic workers' compensation system, employers need a stop-gap endorsement to cover liability for certain workplace injuries. The presence or absence of this coverage is discoverable under **Rule 26 of the North Dakota Rule of Civil Procedure** When relevant to a lawsuit.

Other coverage gaps or disclaimers of coverage by insurers may be discovered through a plaintiff's written motion in negligence-based civil actions.

A plaintiff may request discovery of the defendant's insurance policy limits in a negligence case, and any disclaimer of indemnification duties by filing a written motion. Once disclosed, this information is kept separate from the materials provided to the jury.

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## Oklahoma

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Under 12 O.S. § 3226(B)(1)(b), a party may obtain upon request “any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.” However, while such agreements are discoverable, the statute expressly provides that disclosure does not automatically render the insurance agreement admissible in evidence at trial.



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## Oregon

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

The Oregon Rules of Civil Procedure require disclosure of insurance agreements and policies as part of discovery if requested by the adverse party. ORCP 36 B(2). If requested, the insurer or insured must provide the “existence and contents” of any policy that may be used to satisfy all or part of a judgment in the action or the existence of any coverage denial or reservation of rights, and identification of the provisions in the insurance agreement or policy on which such denial or reservation of rights is based. ORCP 36 B(2)(a).

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## Pennsylvania

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage is discoverable within Pennsylvania pursuant to Pennsylvania Rule of Civil Procedure 4003.2. Pa.R.C.P. 4003.2 specifically states:

“A party may obtain discovery of the existence and terms of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy in part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of such disclosure admissible in evidence of at trial. For the purposes of this paragraph, an application for insurance shall not be treated as part of an insurance agreement.”

## Rhode Island

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Rule 26(b)(2) of the Rhode Island Superior Court Rules of Civil Procedure provides:

*Insurance Agreements.* A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this paragraph, an application for insurance shall not be treated as part of an insurance agreement.

Moreover, R.I. Gen. Laws § 27-7-5 provides that upon receiving a written request from an injured party making a claim against an insured, or from the injured party's attorney, an insurance company, doing business in Rhode Island must disclose to the injured party the amount of the liability coverage limits. A reply should be made within fourteen (14) days of receiving the request. Id.

## South Carolina

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, the South Carolina Rules of Civil Procedure expressly allow for the discovery of insurance information. Specifically, Rule 26(b)(2) states:

“A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.”

<sup>xxiii</sup>Therefore, you may discover the existence and contents of insurance policies, including policy limits, types of coverage, and the identity of insurers.<sup>xxiv</sup> This is allowed even if the insurance is not ultimately admissible at trial.<sup>xxv</sup> However, you cannot discover insurance that is unrelated to satisfying a judgment unless relevant for another reason.<sup>xxvi</sup>



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## South Dakota

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, insurance coverage is discoverable in South Dakota South Dakota Rule of Civil Procedure 26(c)(2) (codified as South Dakota Codified Laws 15-6-26) states that “a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance person may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.” However, “information concerning the insurance agreement is not be reason of disclosure admissible in evidence at trial.”

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## Tennessee

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage (or lack thereof) is not discoverable, at trial, whether before trial or not, in Tennessee state courts. Tenn. R. Civ. Proc. 26; *Thomas v. Oldfield*, 279 S.W.3d 259 (Tenn. 2009). In federal court in Tennessee, insurance coverage, or lack thereof, would be discoverable through Rule 26 initial disclosures.

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## Texas

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes. Insurance policies and indemnity agreements are generally discoverable.

- Tex. R. Civ. P 192.3(f) provides:

Except as otherwise provided by law, a party may obtain discovery of the existence and contents of any indemnity or insurance agreement under which any person may be liable to satisfy part or all of a judgment rendered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the indemnity or insurance agreement is not by reason of disclosure admissible in evidence at trial.

- By being permitted to discover insurance and indemnity agreements, the plaintiff can determine the settlement value of the case. *Carroll Cable. v. Miller*, 501 S.W.2d 299, 299 (Tex. 1973).
- Tex.R.Civ.P 194.2(a) and (b)(7) requires that a defendant must make required initial disclosure of any insurance or indemnity agreements within 30 days after the filing of the first answer unless a different time is set by the parties' agreement or court order.

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## UTAH

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes - in Utah, interrogatories and other discovery methods be used to proactively discover the insurance coverage of (particularly) defendants, because it is considered relevant to the Plaintiff's cause of action since it bears on recovery. See, for instance, *Ellis v. Gilbert*, 429 P.2d 39, 40-42 (Utah 1967). Furthermore, U.R.C.P. § 26.2, which applies to personal injury actions, requires defendants to include "a statement of the amount of insurance coverage applicable to the claim, including any potential excess coverage, and any deductible, self-insured retention, or reservations of rights, giving the name and address of the insurer" in their initial disclosures. (c)(1).

## Vermont

### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes; defendants are obligated to provide insurance limit information pre-suit. Specifically, Vt. Stat. Ann. tit. 23,941(g) provides:

Within 30 days of receipt of a written request by a person reasonably claiming the right to recover damages after a crash involving owners or operators of motor vehicles for bodily injury, sickness, or disease, including death, or for property damages resulting from the ownership, maintenance, or use of a motor vehicle, an insurer that may be liable to satisfy part or all of the claim under a policy subject to this chapter shall provide a statement, by a duly authorized agent of the insurer, setting forth the names of the insurer and insured, and the limits of liability coverage.

23 V.S.A. § 941(g).

## Virginia

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### Discovery of Insurance & Gaps in Coverage

*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Yes, Rule 4:1(b)(2) of the Supreme Court of Virginia allow a party to obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part of all of a judgement which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

As a result of a motor vehicle accident, provided a Plaintiff provides certain information regarding damages, an insurance company must disclose limits of liability of any motor vehicle liability or personal injury liability and the physical address of the alleged tortfeasor who is insured by the insurance company. This information must be provided within 30 days of the receipt of the request. Va. Code § 8.01-417(C).

## Wisconsin

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### Discovery of Insurance & Gaps in Coverage

#### *Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

Insurance coverage is discoverable in litigation.

- A party may obtain the existence and contents of insurance agreements under which insurance may be liable for a judgment which may be entered or to indemnify or reimburse for payments made to satisfy the judgment. Wis. Stat. § 804.01(b)
- Though discoverable, it is not reason of disclosure admissible in evidence at trial. Wis. Stat. § 804.01(b)

## Wyoming

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*Is insurance coverage (or lack thereof) discoverable in your jurisdiction before trial?*

- Wyoming has no pre-suit disclosure requirements for insurance coverage. Once suit is filed, insurance is required to be disclosed as part of initial disclosures.

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