

## Client Alert

### New York Revises Disclosure Requirements for Insurance Information in Litigation

March 1, 2022

In late 2021, New York Governor Kathy Hochul signed into law the Comprehensive Insurance Disclosure Act, which imposes affirmative insurance disclosure requirements on parties to civil actions. The Governor's signature came with an approval memorandum stating that the information required to be disclosed must be "properly tailored for the intended purpose, which is to ensure that parties in a litigation are correctly informed about the limits of potential insurance coverage."

Consistent with the Governor's guidance, the New York legislature revised the Act to alleviate some of the burdens imposed by the new requirements. On Thursday, February 24, Governor Hochul signed the revised Act into law.

The required disclosures have been changed as follows:

1. The required disclosure of copies of all potentially applicable primary, umbrella, and excess policies is now limited to policies that "relate to the claim being litigated."
2. If the adverse party agrees in writing, disclosure can be limited to the declaration page of the applicable policies.
3. Disclosure of insurance applications is no longer required.
4. Disclosure of impairment or exhaustion information now requires only disclosure of the amount of the limits available to satisfy a judgment, after accounting for any erosion.
5. The Act now requires disclosure of one assigned individual with responsibility for adjusting the claim, rather than "any" person with that responsibility.
6. The disclosure requirements are now prospective only, rather than retrospective.
7. The time to make required disclosures was extended to 90 days, rather than 60 days.
8. The obligation to supplement the information provided remains, but is less onerous. The requirement to supplement within 30 days of receipt of new information has been deleted and replaced by reference to certain specified times during a litigation where a party must provide updated information.
9. The requirements no longer apply to actions brought to recover motor vehicle insurance personal injury protection benefits.

These amendments reduce the potential burden of the Act. The requirements nevertheless require significant disclosures of insurance information in New York litigation. The Act creates new obligations for defense counsel, and likely will result in new burdens on insurers.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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