

**PAYING THE PRICE TO DETERMINE POLICY LIMITS: CONDITIONAL PROVISION OF
POLICY LIMITS INFORMATION AND PRELITIGATION MEDIATION OF INSURANCE
CLAIMS**

Christopher Nichols, Attorney at Law

Nichols Law Firm
106 Kipling Place, Suite 106
Raleigh, NC 27609

(919)915-0212 phone
(919)510-0170 facsimile

Email: nicholsatty@gmail.com
www.NicholsTrialLaw.com

I. Introduction to the New Legislation

Session Law 2003-307, Senate Bill 775 was signed into law by Governor Michael Easley on July 4, 2003. The Bill becomes effective on January 1, 2004 as Chapter 58., Insurance, Article 3., General Regulations for Insurance § 58-3-33 and as Chapter 7A., Judicial Department, Subchapter II., Appellate Division of the General Court of Justice, Article 5. Jurisdiction, § 7A-38.3A., Prelitigation mediation of insurance claims. § 58-3-33 was amended through technical corrections on August 17, 2004 by 2004 North Carolina Laws S.L. 2004-199 (S.B. 1225) to clarify that the party requesting the liability insurance proceeds must provide a list of all medical providers for the three years before the collision in addition to the treating medical providers after the collision.

The purpose of the bill is to allow a mechanism for an injured person to determine the “policy limits” of a potential defendant in a claim for personal injury or property damage. This may also allow the attorney to determine the limits of underinsured policies of other motorists involved in the injuring event. The new statute specifically does not apply to “claims seeking recovery for medical malpractice.”

The purpose of this paper is to explore the operation of this new law, the potential uses of the law and some potential pitfalls to avoid under the new legislation.

A. Production of Policy Limits per § 58-3-33

Until the enactment of §58-3-33, Insurer conditionally required to provide information, there were only two reliable ways to determine the insurance policy limits of a defendant driver. The first method was to request the defendant's liability carrier to voluntarily disclose this information prior to the filing of a law suit. The second method was to file a law suit and request the insurance coverage information in formal discovery. Typically, unless the case was clearly and ridiculously in excess of the policy limits, most insurance companies would not divulge the policy limits.

Without knowing the policy limits, attorneys are in a difficult position. The client inevitably wants to know "how much insurance" the defendant driver has to cover the claim. The lawyer would like to know the policy limits for several reasons. First, setting an initial demand becomes much easier in claims that clearly exceed the policy limits. Second, by knowing the policy limits of the liability policy, the attorney has a better idea of whether it is necessary to look for additional insurance sources such as excess policies or underinsured policies. Finally, by knowing the maximum amount recoverable under a policy, the lawyer can accurately advise the client regarding spending decisions while preparing the case. No lawyer wants to blindly hire an accident reconstructionist at \$250 an hour if the maximum policy limits are only \$30,000.00 and the client has \$25,000 in medical bills.

§ 58-3-33 is designed to provide a third means to determine insurance policy limits. By following three procedural steps the claimant can compel the insurance company to divulge the policy limits of the insurance coverage for the defendant.

1. Insurance Policies Subject to the Rule

The rule applies to persons injured by another "where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance."

Thus, the rule will not make an insurance company divulge umbrella policies and some business policies. You should be able to request business policies that are non-fleet (a business owning less than 5 vehicles) and business policies for vehicles weighing less than 10,000 pounds. The statute seems to also clear the way to discover the policy limits of others injured in the collision who might be covered by underinsured policies. This can be particularly helpful where several passengers are injured and the underlying liability policy is insufficient to cover the damages.

2. Requirements for the Request of Information

There are several procedural requirements to the new rule. To obtain the policy limits disclosure, the person submitting a request for policy limits must initially do at least the following:

1. Submit a written request “that the insurance company provide information regarding the policy’s limits of coverage under the applicable policy.”
 - A. By certified mail, directed to,
 - i. the insurance adjuster, OR
 - ii. the insurance company,
 - a. to “Attention Corporate Secretary”
 - B. At its last known principal place of business, AND;
 - C. Include the policyholder’s name, AND;
 - D. *If available*, include the policy number.

3. Actions the Insurance Company Must Take Upon Receipt of Request

Once the injured person has sent the above release, the insurance company must, within 15 days of the receipt of the request, on a form approved by the Department of Insurance, inform the requestor that the insurance company is required to provide the policy limits prior to litigation ONLY IF the person seeking the information satisfies three conditions.

The conditions are as follows:

- (1) The person seeking the information submits to the insurer the person's written consent to all of the person's medical providers to release to the insurer the person's medical records for the three years prior to the date on which the claim arose, as well as all medical records pertaining to the claimed injury.
- (2) The person seeking the information submits to the insurer the person's written consent to participate in mediation of the person's claim under [G.S. 7A-38.3A](#).
- (3) The person seeking the information submits to the insurer a copy of the accident report required under [G.S. 20-166.1](#) and a description of the events at issue with sufficient particularity to permit the insurer to make an initial determination of the potential liability of its insured.

Let's discuss the three sections.

Section (1) requires the requestor to provide a consent form for the insurance company to obtain medical records from the requestor's "physicians" for the three years before the date the claim arose. The statute was amended this summer to make clear that the requestor must provide a list of all "pre-existing" medical providers as well as the post-accident providers.

The NC Department of Insurance (DOI) has provided "go by" forms for lawyers and for the insurance companies to use. The forms are available at: <http://www.ncdoi.com/Industry/LBAR/Bulletins/2004/04-B-01.pdf>

The medical release forms provided by the DOI, are not, in my opinion, HIPPA compliant. (See pages 16 -19 of this paper for the documents produced by the DOI.)

Notice that the statute does not require a particular form that must be provided to the insurance company. It is this writer's belief that a letter directed to the requestor's physician(s) allowing disclosure of the medical records to the insurance company is all that is required by the statute. The insurance company has the responsibility of paying the costs and assuring compliance with HIPPA regulations.

Section (2) simply requires that the requestor submit, in writing, his or her consent to participate in pre-litigation mediation of the dispute pursuant to G.S. 7A-38.3A. Note, that §38.3A is a one way street. The requestor can not force the insurance company to mediate. Only the insurance company can force the requestor.

Section (3) requires that the requestor provide a copy of the crash report produced by law enforcement as well as a description of the crash "with sufficient particularity to allow the insurer to make a determination of the potential liability of its insured." The first part of this section should not present a problem for most requestors, particularly attorneys. If no crash report is available, it is this writer's opinion that the insurance company should still comply with the rule.

The second part of the "police report" requirement is that the requestor describes the accident placing an emphasis on the liability of the insured defendant. I would suggest that this description be kept as brief as possible. I have included a sample request letter with this paper.

4. Timing of the Disclosure of Limits

The insurer shall provide the policy limits to the requestor 30 days after the receipt of the information set out in section 3, above. The law does not state

how the insurer is to provide the policy limits and does not seem to require the insurance company to actually provide a certified declaration sheet.

5. Limitations on Disclosure

The statute only requires disclosure of policy limits for “non-fleet private passenger automobile insurance.”

No disclosure of the policy limits under the statute shall constitute an admission that the alleged injury or damage is subject to the policy

The statute does not apply to medical malpractice claims.

The statute does not require disclosure of policy limits where “the insurer intends to deny coverage under any policy of insurance.” I read this section of the policy to say that if the insurer intends to deny the claim under a theory of contributory negligence or because of coverage exclusions, the insurer is not required to disclose policy limits. Others have interpreted this to mean that the insurer may only deny the request in the event that they claim there is a coverage defense, not a simple denial of liability.

In theory, at least, if the insurer does not disclose the policy limits within thirty days of receipt of the requestor's required submissions, the insurer is implicitly denying the claim. I argue then that if years later the defense attorney defending the claim asserts at trial that the defense has “always admitted responsibility for the accident” you should be entitled to submit into evidence the pre-litigation “denial” of the claim.

B. Prelitigation mediation of insurance claims

When an injured person demands the insurance company to disclose the policy limits of an insurance policy covering the collision, the injured person must consent to participate in pre-litigation mediation of the claim pursuant to § 7A-38.3A. Pre-litigation mediation follows the same rules (§ 7A-38.1) as court ordered mediation in Superior Court cases with one exception: pre-litigation mediation eliminates any sanctions for the failure of a party to attend the mediation. Specifically, § 7A-38.3A eliminates subpart (g) of §7A-38.1, the rules governing mediated settlement conferences in superior court civil actions. The eliminated subpart (g) gives Superior Court judges the ability to award attorneys’ fees, mediator fees and expenses incurred in attendance of a mediation. §7A-38.3A does not apply to medical malpractice claims.

1. Insurers demand for prelitigation mediation

Pre-litigation mediation can not be demanded by the insurer unless two

things have occurred. First, you must have demanded disclosure of the policy limits pursuant to § 58-3-33. Second, the insurer must have provided the policy limits “in accordance” with § 58-3-33. Thus, if the insurer provides the policy limits 31 days after you complied with the disclosure requirements, the insurer can not force you to mediate the claim presuit.

Only the insurer may demand prelitigation mediation.

The procedure for demanding prelitigation mediation by the insurer is as follows:

Step 1: Insurer Complies with § 58-3-33 policy limits disclosure request by disclosing policy limits pursuant to statutory time requirement.

Step 2: Insurer files request for mediation with clerk of superior court in county where action may be brought.

Step 3: Insurer delivers by certified mail a copy of the request for prelitigation mediation to the person who requested policy limits disclosure.

2. Prelitigation premediation procedure

Although the statute is not specific in this regard, it is assumed that the clerk of court in the county where the mediation is requested will provide selection of mediator forms to the “parties” and the normal procedure for agreeing on a mediator will be used. Expect the clerks to be confused because they will not have a mediation completion date set by a filing of a complaint.

3. Prelitigation Mediation

The procedure for mediation will be the same in prelitigation mediation as it is in Superior Court mediation. The mediator will file a certification with the clerk at the conclusion of the mediation stating what result was reached. The filing of the certification is considered to be evidence that the parties have “complied with the requirements of this section” unless the certification specifies that a party has “failed or refused to attend one or more mediation meetings or otherwise participate.”

As stated earlier, there are no penalties or enforcement mechanisms available to punish a party failing to attend or participate in prelitigation mediation

4. Tolling of Time Periods

Who would have guessed that hidden in the statutes covering mediated settlements is the only way to extend a statute of limitations in a personal injury case with the exception of minority or insanity?

Subpart (e) of §7A-38.3A not only tolls the statute of limitations, it also tolls “time periods relating to the filing of a claim or the taking of other action with respect to an insurance claim, including any applicable statute of limitations.”

The tolling begins upon the “filing of a request for mediation under this section.” This suggests that the statute is tolled when the clerk files the request (assuming the clerk has some idea where to file such a request).

The tolling of time periods ends (EITHER) 30 days after the date on which the mediation is concluded “as set forth in the mediator’s certification,” (OR) if the mediator “fails to set forth such date,” 30 days after the filing of the certification.

The purpose of this section of the statute appears to be to allow the parties to resolve a dispute through mediation without either being forced to file a law suit and pay lawyers if the statute of limitations is looming while negotiations are ongoing. In theory at least, a statute of limitations could be tolled for an almost unlimited amount of time because the tolling only ends once the mediator has filed his or her certification.

One distant and improbable result of this statute is that if a party has unsuccessfully mediated a case prelitigation without an attorney, that person has in effect “extended” the statute of limitations for the time period running from the insurance company’s filing of the demand for mediation until 30 days after the mediator files the certification stating the concluding date of the mediation.

The time period from request to conclusion of the mediation could be months, so if someone arrives at your office 2 years and 363 days after they were involved in a motor vehicle crash, remember to ask them if they participated in prelitigation mediation. If they did, you may have just added several months to your statute of limitations. You might also have discovered the only person to ever take advantage of this new statute.

CHAPTER 58. INSURANCE

ARTICLE 3. GENERAL REGULATIONS FOR INSURANCE

§ 58-3-33. Insurer conditionally required to provide information

(a) A person who claims to have been physically injured or to have incurred property damage where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance may request by certified mail directed to the insurance adjuster or to the insurance company (Attention Corporate Secretary) at its last known principal place of business that the insurance company provide information regarding the policy's limits of coverage under the applicable policy. Upon receipt of such a request, which shall include the policyholder's name, and, if available, policy number, the insurance company shall notify that person within 15 business days, on a form developed by the Department, that the insurer is required to provide this information prior to litigation only if the person seeking the information satisfies all of the following conditions:

- (1) The person seeking the information submits to the insurer the person's written consent to all of the person's medical providers to release to the insurer the person's medical records for the three years prior to the date on which the claim arose, as well as all medical records pertaining to the claimed injury.
- (2) The person seeking the information submits to the insurer the person's written consent to participate in mediation of the person's claim under [G.S. 7A-38.3A](#).
- (3) The person seeking the information submits to the insurer a copy of the accident report required under [G.S. 20-166.1](#) and a description of the events at issue with sufficient particularity to permit the insurer to make an initial determination of the potential liability of its insured.

(b) Within 30 days of receiving the person's written documents required under subsection (a) of this section, the insurer shall provide the policy limits.

(c) Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy.

(d) This section does not apply to claims seeking recovery for medical malpractice or claims for which an insurer intends to deny coverage under any policy of insurance.

Added by [S.L. 2003-307, § 1, eff. Jan. 1, 2004](#). Amended by [S.L. 2004- 199, § 21, eff. Aug. 17, 2004](#).

HISTORICAL AND STATUTORY NOTES

2003 Legislation

S.L. 2003-307, § 3, provides:

"This act becomes effective January 1, 2004, and applies to claims regarding physical injury or property damage that arise on or after that date."

2004 Legislation

S.L. 2004-199, § 21, eff. Aug. 17, 2004, in subsec. (a), rewrote subd. (1), which prior thereto read:

"(1) The person seeking the information submits to the insurer the person's written consent to the person's physicians to release to the insurer the person's medical records for the three years prior to the date on which the claim arose."

CROSS REFERENCES

Prelitigation mediation of insurance claims, see [§ 7A-38.3A](#).

RESEARCH REFERENCES

Encyclopedias

[Strong's N.C. Index 4th, Compromise and Settlement § 12](#), Statutory Purpose and Applicable Definitions.

[Strong's N.C. Index 4th, Insurance § 1025.5](#), Mediation.

N.C.G.S.A. § 58-3-33, NC ST § 58-3-33

Current through the 2004 Reg. Sess.

CHAPTER 7A. JUDICIAL DEPARTMENT
SUBCHAPTER II. APPELLATE DIVISION OF THE GENERAL COURT OF JUSTICE
ARTICLE 5. JURISDICTION
§ 7A-38.3A. Prelitigation mediation of insurance claims

<Text of section eff. Jan. 1, 2004.>

(a) Initiation of Mediation. - Prelitigation mediation of an insurance claim may be initiated by an insurer that has provided the policy limits in accordance with [G.S. 58-3-33](#) by filing a request for mediation with the clerk of superior court in a county in which the action may be brought. The insurer also shall mail a copy of the request by certified mail, return receipt requested, to the person who requested the information under [G.S. 58-3-33](#).

(b) Costs of Mediation. - Costs of mediation, including the mediator's fees, shall be borne by the insurer and claimant equally. When an attorney represents a party to the mediation, that party shall pay his or her attorneys' fees.

(c) Mediation Procedure. - Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in [G.S. 7A-38.1](#) and [G.S. 7A-38.2](#), and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of [G.S. 7A-38.1](#) for cases in which mediation was attempted under this section.

(d) Certification That Mediation Concluded. - Upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party. Each party to the mediation has satisfied the requirements of this section upon the filing of the certification, except any party specified in the certification as having failed or refused to attend one or more mediation meetings or otherwise participate. The sanctions in [G.S. 7A-38.1\(g\)](#) do not apply to prelitigation mediation conducted under this section.

(e) Time Periods Tolled. - Time periods relating to the filing of a claim or the taking of other action with respect to an insurance claim, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification or, if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (d) of this section.

(f) Medical Malpractice Claims Excluded. - This section does not apply to claims seeking recovery for medical malpractice.

Added by [S.L. 2003-307, § 2, eff. Jan. 1, 2004](#).

S.L. 2003-307, § 3, provides:

"This act becomes effective January 1, 2004, and applies to claims regarding physical injury or property damage that arise on or after that date."

January 1, 2004

Bill Cheap
Senior Adjuster
Pinch Penny Insurance Company
Raleigh, NC 27622

Via Certified Mail # 83456-78891

RE: Request for Policy Limits Disclosure Pursuant to N.C.G.S. § 58-3-33

Your Insured:	Joe Defendant
Your Policy Number:	Unknown
Date of Collision:	January 1, 2004
My Client:	Susan Plaintiff

Dear Mr. Cheap:

I am the attorney representing Susan Plaintiff who was rear-ended by your insured, Joe Defendant, on January 1, 2004 in Raleigh, North Carolina.

Pursuant to North Carolina General Statute §58-3-3, "Insurer Conditionally Required to Provide Information," I am requesting that you provide to me within 30 days of the receipt of this letter the amount of the insurance policy limits of Joe Defendant, your insured. I have provided you with a copy of the statute requiring you to provide the policy limits to me.

Under the requirements of the statute, please accept this letter as our consent to your insurance company for my client to participate in pre-litigation mediation of the claim pursuant to N.C.G.S. 7A-38.3A.

You will also find enclosed a copy of the crash report which was prepared by law enforcement officials describing your insured's negligence in this matter. Further, my client's "description of the events at issue with sufficient particularity to permit the insurer to make an initial determination of the potential liability of its insured" is as follows:

I was driving in my car when, with no warning, Joe Defendant rear-ended my car causing damage to me and my car.

You will also find enclosed "written consent" to my client's "physicians to release to the insurer the person's medical records for three years prior to the date on which the claim arose."

This letter and its contents are offered to facilitate a compromise of a claim which is disputed either as to validity or amount and is protected by Rule 408 of the North Carolina Rules of Evidence.

I look forward to receiving your disclosure of your insured's policy limits within thirty days (30 days) of your receipt of this letter. Thank you for your cooperation.

Sincerely yours,

NICHOLS LAW FIRM

Christopher R. Nichols
Attorney

enclosures

**Written Consent to Physician to Release Medical Records
Pursuant to NCGS § 58-3-33**

Dear Physician:

As you may know, I was injured in an automobile collision on January 1, 2004. The insurance company for the driver that hit me will not tell me how much, if any, insurance the driver of the vehicle that injured me has unless I sign this release allowing you to produce my medical records for the three years (3 years) before the car wreck.

Please consider this letter my written permission to provide my medical records from January 1, 2001 until the present to:

Bill Cheap
Senior Adjuster
Pinch Penny Insurance Company
Raleigh, NC 27622

You may also provide records to my attorney, Christopher Nichols, at the Kuniholm Law Firm.

This written consent is valid for the following physicians:

Ralph Butterfinger, MD (family doctor before car wreck)
Pleasant Valley Road
Bunn, NC 27622

Susan Whipple, MD (gynecologist before car wreck)
Deer Run Drive
Raleigh, NC 27622

Dr. Ima Bonecruncher (orthopaedic surgeon after car wreck)
154 Sawblade Place
Cary, NC 27669

This release is valid for 30 days from the date signed below.

This the 1st day of January, 2004.

Susan Plaintiff Date of Birth: 7/4/1969

February 3, 2004

Bill Cheap
Senior Adjuster
Pinch Penny Insurance Company
Raleigh, NC 27622

Via Certified Mail # 83456-78891

RE: Your failure to respond to our Request for Policy Limits Disclosure Pursuant to N.C.G.S. § 58-3-33

Your Insured:	Joe Defendant
Your Policy Number:	Unknown
Date of Collision:	January 1, 2004
My Client:	Susan Plaintiff

Dear Mr. Cheap:

On January 3, 2004 you received my certified mail request to you to disclose your insured's policy limits pursuant to N.C.G.S. §58-3-33. The request included all statutorily required submissions from my client including an accident report, consent to submit to mediation, medical release to physicians to release my client's medical records for the three years before the collision, and my client's brief description of the collision.

Pursuant to North Carolina General Statute §58-3-3, "Insurer Conditionally Required to Provide Information," you are required to provide to me within 30 days of the receipt of the above information the amount of the insurance policy limits of Joe Defendant, your insured. You have not provided this information to me as you are required under the statute.

I will consider your failure to provide this information to me as your denial of coverage pursuant to subpart (d) of §58-3-33. Please inform your insured that due to your complete denial of insurance coverage for the negligence of your insured, I will be filing a civil law suit against your insured, Joe Defendant, seeking monetary damages on behalf of Susan Plaintiff.

I have also forwarded a copy of this letter to your insured so he can have the opportunity to discuss the situation with an attorney. I have also forwarded a copy of this letter to the

North Carolina Commissioner of Insurance in the event that you are not denying all insurance coverage for the collision but are simply non-compliant with the time requirements of the statute.

Please call me if you wish to discuss this matter.

Sincerely yours,

NICHOLS LAW FIRM

Christopher R. Nichols
Attorney

cc: Joe Defendant
James E. Long, NC Commissioner of Insurance

BULLETIN

Number 04-B-01

To: All licensed entities

Date: January 1, 2004

Subject: Policy Limits Disclosure Notice

Attention: Chief Executive Officers, Compliance Officers, or Filers

The 2003 North Carolina General Assembly enacted Session Law 2003-307 (Senate Bill 775). This states that a person who claims to have bodily injury or property damage where such loss is subject to a policy of nonfleet private passenger automobile insurance may request the insurance adjuster or insurance company provide information regarding the policy's limits of coverage. The Department was required to develop a form to be used in making such requests.

Attachment number one is the required notification form to be provided by an insurance company within 15 business days after receipt of a request by a claimant for policy limits information, which request must include the name of the policyholder and the policy number if it is available. The text of this form may be reproduced or generated in a manner and format adaptable to the operations of the insurance company, however, the form must be printed in a typeface at least as large as 10 point modern type, one point leaded, be written in a logical and clear order and form. Attachments numbers 2 and 3 are provided as an assistance but are not mandatory and insurance companies may use whatever consent form that suit their legal requirements.

If you have questions, please contact Charles Swindell, Deputy Commissioner, Property & Casualty Division, P. O. Box 26387, Raleigh, N. C. 27611 or call 919.733.3368 X 226.

**WHAT YOU MUST DO TO OBTAIN INFORMATION ON THE POLICY LIMITS OF THE
NONFLEET PRIVATE PASSENGER AUTOMOBILE INSURANCE POLICY
ISSUED TO OUR INSURED**

“**You**” or “**Your**” refers to the **claimant** seeking information regarding the policy limits of a nonfleet private passenger automobile insurance policy issued to Our Insured as provided in North Carolina General Statute 58-3-33(a).

“**Company**”, “**We**”, “**Us**” and “**Our**” refer to **the insurance company** which issued the policy or an adjuster of the insurance company.

“**Our Insured**” or “**Insured**” refers to any person for whom coverage is provided under the insurance policy that may be applicable to Your claim.

You have requested from the Company or its adjuster information concerning the policy limits of the insurance policy issued to Our Insured under which Your claim for bodily injury and/or property damage has been made. **By law**, the Company is not required to furnish You with that information prior to You filing a lawsuit unless You satisfy **all** of the following conditions:

1. You must submit to the Company a written consent for Your health care providers to release to the Company Your medical records for a period commencing three years prior to the date on which Your claim arose. A consent form is attached. You are not obligated to use the attached consent form. However, if You elect not to use the attached consent form, You must still provide a signed consent form that allows the Company to obtain Your medical records for the three years prior to the date on which Your claim arose;
And

2. You must submit to the Company a written consent to participate in the mediation of Your claim as described in North Carolina General Statute 7A-38.3A. **A copy of that statute is attached; please read it carefully.** Please note that if You agree to mediate your claim, You will be responsible for up to one half of the costs of mediation, including the mediator’s fees. If You do not like the result of the mediation, You may still file a civil action in the appropriate court. A consent form is attached. You are not obligated to use the attached consent form. However, if You elect not to use the attached consent form, You must still submit a consent form voluntarily agreeing to participate in mediation of Your claim under North Carolina General Statute 7A-38.3A; **and**

3. You must submit a copy of the applicable accident report required under North Carolina General Statute 20-166. You must also provide the Company with a detailed description of the events surrounding your claim. Your description must be detailed enough to allow the Company to make a determination of the potential liability of Our Insured.

If You provide the information noted above in paragraphs 1, 2, and 3, the Company will provide You with the requested insurance policy limits within thirty days of the Company’s receipt of such information. Disclosure of the policy limits shall not constitute an admission that the alleged injury of damage is covered under or subject to the policy.

This procedure for requesting information regarding policy limits of an insurance policy does not apply to 1) claims seeking recovery for medical malpractice or 2) claims for which the Company intends to deny coverage under any policy of insurance.

04-B-1 edition 01/01/04

CONSENT TO RELEASE MEDICAL RECORDS

Pursuant to North Carolina General Statute 58-3-33(a), I, _____ (claimant's name), authorize and direct all health care providers and health care facilities to release to _____ (insurance company name) all medical records relating to my health, diagnosis, and treatment for the three year period prior to _____ (date claim arose). This consent to release medical records is irrevocable within one year of its execution, provided, however, that it expires automatically one year after the date of its execution.

Claimant's printed name

Claimant's signature

Date

State of _____

County of _____

Sworn to and subscribed before me this the ___ day of _____, 20 ___.

(Notary's name)

My commission expires: _____

CONSENT TO PARTICPATE IN MEDIATION

Pursuant to North Carolina General Statute 58-3-33(a), I, _____ (claimant’s name) voluntarily agree to participate in the mediation of my claim arising on _____ (date of claim) under the policy of insurance number _____ (if known) issued to _____ (insured’s name, if known) by _____ (insurance company name). My agreement to participate in mediation is consideration for my receipt of information concerning the policy limits of the policy under which my claim is made. I have been provided a copy of North Carolina General Statute 7A-38.3A governing that mediation. I understand that I will be responsible for the payment of up to one half of the mediation costs, including the mediator’s fees. This consent to participate in mediation of my claim only applies to the insurance company named in this consent form; my consent herein does not constitute a voluntary agreement to mediate my claim with respect to any other parties. This consent to participate in mediation only applies to my claim arising on _____ (date of claim) against _____ (insured’s name, if known) It does not apply to any past or future claims. This consent to participate in mediation is irrevocable.

Claimant’s printed name

Claimant’s signature

Date

State of _____

County of _____

Sworn to and subscribed before me this the ____ day of _____, 20 ____.

(Notary’s name)

My commission expires: _____