

Business Liability

Expensive Litigation Is Driving Insurance Costs

SOARING COURT judgments and jury awards are pushing up the cost of commercial liability and umbrella insurance policies, particularly for businesses that have been sued before.

There are a number of factors at play, including massive “nuclear” jury awards for tens of millions of dollars, private equity-backed lawsuits and a phenomenon known as “social inflation” — when the costs of jury awards increase faster than the cost of living.

A 2024 A.M. Best report found that social inflation and large verdicts mostly affect commercial auto, professional liability, product liability and directors and officers liability insurance.

Policyholders are also facing more restrictive general liability coverage as insurers continue to reduce their exposure.

What’s happening

A 2024 study by reinsurance company Swiss Re found that social inflation had increased liability claims by 57% over the previous decade. The increase in 2023 alone was 7%. Another study showed that over a five-year period, the top 50 insurers in the U.S. had allocated half a billion dollars for litigation expenses.

The Insurance Information Institute in early 2024 pointed to legal-system abuse as a leading reason for auto insurance companies losing money to the tune of \$1.10 for every \$1 in premium.

“As dangerous roads and driving conditions as well as economic costs have been on the rise for several years,” the institute wrote, “the challenges presented by overzealous billboard attorneys are exasperating the situation.”

Adding fuel to the fire is the increase in nuclear verdicts — when a jury awards damages of more than \$10 million.

Fears of verdicts this large have encouraged businesses and their insurers to settle claims rather than fight them, leading to higher costs.

Recent ‘nuclear’ jury awards

- In 2021, a Florida jury awarded a landmark \$1 billion verdict to next of kin of a motorist who was killed after a driver for Kakhkashan Transportation Inc. was on his cell phone when he flipped his semi truck, plowing into the man’s vehicle.
- A Philadelphia jury in May 2024 ordered Exxon Mobil to pay \$725 million to a service station mechanic who developed cancer after being exposed to benzene in gasoline.
- In June 2024, a California jury ordered entertainment mogul Alki David to pay \$900 million to a former worker who had accused him of sexual battery.

Lawsuits have also become investment vehicles. Private equity firms are funding lawsuits against businesses in return for a share of any awarded damages or settlements.

What you can do

Your business can reduce its chances of getting sued by:

- Focusing on risk management,
- Ensuring you hire good drivers and provide training that focuses on reducing risks of distracted driving,
- Preventing workplace discrimination and harassment,
- Maintaining clear and detailed documentation,
- Implementing sound business practices,
- Training employees on legal compliance, and
- Having clear contracts.

You can work with your insurance companies both on loss prevention and managing claims for losses that do occur. Finally, work with us to ensure that you have liability policy limits that are realistic in today’s world. ❖

