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NA Benchmark Report Media Summary

June 17, 2024

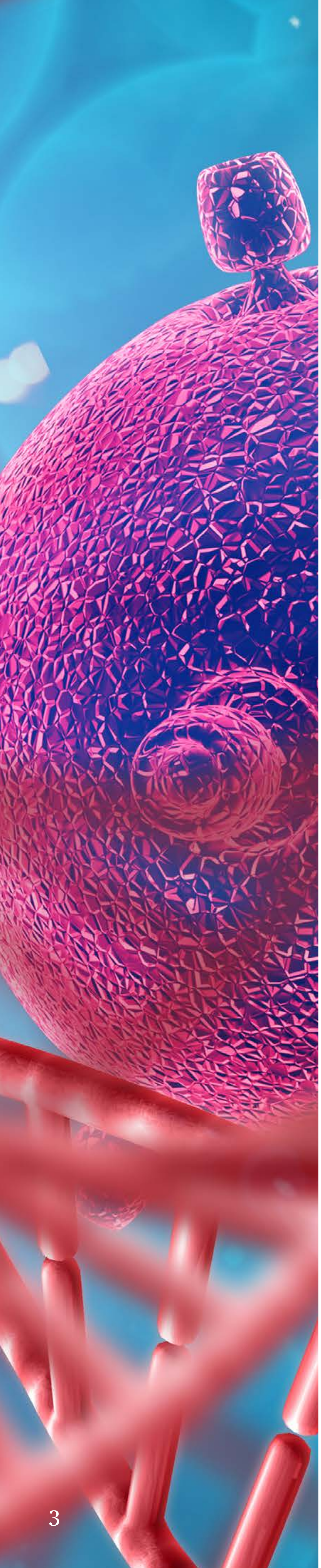
Corporate America is underestimating the severity of liability losses

New analysis from Chubb reveals that while large jury verdicts rise in number and cost, companies do not have adequate liability insurance to cover the losses

The latest annual report from Chubb, which tracks large jury verdicts and the amount of insurance coverage companies in different sectors have to cover liabilities, shows a gap that continues to widen. Despite a clear trend of large losses, companies are underestimating the amount of liability coverage they need.

- Large verdicts against corporate defendants jumped to $18.3 billion in 2022, up from $4.9 billion in 2020. That's a 273% rise seen across the 10 industry sectors in the report, including healthcare, life sciences, manufacturing, construction, real estate and hospitality, consumer products and the chemical industry.
- In nine out of 10 industry sectors covered in the report, the median insurance limit purchased in 2023 was lower than nearly a decade ago.
  - In Construction, median limits purchased in 2023 were 44% lower than in 2014; in Healthcare, median limits purchased in 2023 were nearly 31% lower than in 2014; in Consumer Products median limits purchased for 2023 were 28% lower than in 2014.
  - Only the Utilities sector had more coverage in 2023 than in 2014 with a 9% increase.

> "The increase in elevated liability-related loss costs is driven by a number of factors, including a rise in litigation funding and a perception in society today that the system, including big business, is rigged against everyday people," says Gillston. "Companies that underestimate the severity of liability losses may face financial, brand and long-term stock price impacts."



Rise in litigation funding, changing social environment and case backlog

Opaque financing by third-party investors seeking a portion of plaintiffs' recoveries continues to rise.

> The market for litigation funding was valued at $18.2 billion in 2022 and forecast to grow at a compound annual growth rate of 13.2% through 2028, according to industry research.

> Television advertising rose in 2023 for mass litigation verdicts, with nearly 800,000 ads costing over $160 million, according to X Ante, a research firm.

> Funding state and federal litigation cases can have a 30% to 40% return on investment for third-party litigation funders of mass tort cases, according to the Insurance Information Institute.

A changing social environment and attitudes towards business and corporations are also contributing to higher jury verdicts that exceed general economic inflation.

- Factors driving this include a distrust of corporations, concerns about social justice issues and fears around emerging risks, such as climate change, geopolitics and data privacy.

The pandemic created a backlog of cases and Chubb has seen that the backlog impacted litigation costs.

Extreme weather, employee negligence factor into rising costs

In recent years, verdicts resulting from extreme weather incidents have increased.

- In 2023, a jury awarded $112.2 million for a claim related to a flooded factory.
- A train engineer was awarded $11.6 million after collapsing from extreme heat.

Cases featuring employee negligence are also more commonplace.

- 2023 cases include a $1 billion dollar verdict in a car crash resulting from a truck driver's negligence; an $800 million settlement for a mass shooting case.

Why companies are not purchasing enough

How much liability insurance is enough is a tough question to answer.

Companies that lose in litigation may face a serious financial impact and have to take an earnings charge. Large verdicts can also damage a brand's reputation and drive a decline in stock price for years. Cost is a major consideration, along with the option to increase self-retention.

This is where brokers and insurance carriers can truly demonstrate their value in helping companies to best assess how much liability coverage they might need. This may also include the option of punitive damage wraps to help insureds protect against the unknown with the certainty of coverage. Brokers and insurance carriers like Chubb can use their expertise evaluating historical data and industry knowledge to partner with clients to provide bespoke insurance solutions that can help them navigate these challenging circumstances.

Report methodology

Chubb's 16th Annual Liability Limit Benchmark & Large Loss Profile by Industry Sector 2024 Report offers insurance brokers and clients data and examples to support planning coverage and determine reserves for the following year. It helps companies gauge what types of litigation need to be covered, limits companies should contemplate and offers trend observations from Chubb industry experts.

The report estimates median total limits purchased by Chubb Bermuda's excess liability clients in the 2014 through 2023 years. The changes in these limits purchased over time are compared to loss costs trends based on data from the Insurance Services Office, an advisory and rating agency that provides statistical and actuarial services to the property and casualty insurance industry.

Verdicts or settlements in the report come from public records and are selected by Chubb claims specialists as indicative of those faced by a particular sector. Chubb was not necessarily an insurer on the selected claims.

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