



MITIGATING THE IMPACT OF THERMONUCLEAR VERDICTS

As the hard market continues, experts have started to see the significant impact on the Property & Casualty (P&C) sector throughout the United States. In a market defined by high premiums and restricted coverages, P&C agents need to have a strong understanding of the pressures and dynamics that have arisen to help their clients navigate these risks.

The current market faces a myriad of challenges — with thermonuclear verdicts, third-party litigation funding and traumatic brain injury (TBI) claims emerging as significant concerns.

Understanding the dynamics of these hot button issues can help mitigate their future impact. We break down each of these categories to help inform our agents on how to best navigate this landscape with their clients and the industries they serve.

→ Did you know...

- Since 2020, thermonuclear verdicts have been on the rise. The median verdict saw a **95% increase** from 2020 to 2022, with an increasingly high number of verdicts north of \$10 million.
- Third-party litigation funding started in Australia in the 1990s and has since spread around the globe, with an **estimated \$15.2 billion** in commercial litigation investments in the US alone.
- An estimated **1.7 million Americans** sustain a traumatic brain injury (TBI) each year.

Understanding Thermonuclear Verdicts

Thermonuclear verdicts refer to extraordinarily high jury awards, often reaching into the millions or even billions of dollars. These verdicts can have a devastating financial impact on insurance companies, leading to increased premiums and a reevaluation of coverage strategies.

The rise of such verdicts is partly attributed to a societal shift toward higher compensation for perceived injustices and the influence of emotional appeal in courtrooms. These verdicts can have a profound impact on the parties involved, including the defendants, plaintiffs and the insurance companies that underwrite the risk.



What is Third-Party Litigation Funding?

- Third-party litigation funding (TPLF) involves external investors, like private equity firms, financing legal claims in exchange for a portion of the settlement or judgment. While TPLF provides plaintiffs with the necessary resources to pursue their cases, it also contributes to an increase in litigation frequency and severity. This phenomenon has led to a surge in claims and, consequently, higher costs for insurers.
- TPLF can extend litigation as funded plaintiffs have the resources to pursue cases more aggressively and due to regulatory challenges. With a staggering increase in social inflation over the last few years, the industry is calling for increased regulation of TPLF to create a more level playing field.

Traumatic Brain Injury Claims & Their Impact

- TBI claims represent a significant portion of high-value insurance claims. TBIs often result in long-term medical care, rehabilitation and loss of income — leading to substantial settlements or verdicts. The complexity of diagnosing and treating TBIs further complicates these claims, making them challenging for insurers to manage. They create challenging, emotional claims that often connect to a jury, giving plaintiffs the upper hand.



Protecting Your Organization from Risks

NSM Insurance Group, with our carrier partners and third-party administrators, are in constant contact on the topic of thermonuclear verdicts and how to proactively help our agents mitigate the risks for your insureds. Here are some helpful tips on how agents can work to best protect against these costly outcomes:



Timely Claim Reporting: Ensuring that claims are reported promptly allows for early investigation and potentially quicker resolution. Early reporting can also help in gathering crucial evidence and mitigating damages.



Risk Mitigation: Implementing robust risk management practices can help reduce the likelihood and severity of claims. This includes regular safety training, adherence to industry standards and proactive measures to prevent accidents.



Up-to-Date Employee Records: Maintaining accurate and up-to-date employee records ensures that insurers have the necessary information to assess risks accurately. This includes documentation of training, certifications and incident reports.



Advanced Analytics: We leverage data analytics to stay ahead of current trends for our programs. Anticipating trends is essential for the success of our agents and their clients.



Collaboration with Legal Experts: Working closely with legal experts can help agents navigate complex litigation, especially in cases involving TPLF and high-stakes claims. Expert legal advice can guide strategies to defend against large verdicts effectively.

The insurance industry must adapt to the evolving landscape of thermonuclear verdicts and other catastrophic claims. Through proactive measures and strategic planning, agents can navigate these complexities — ensuring stability and continued growth for their clients even in an increasingly litigious environment.



Making a Claim

Agents, if you have any claims, please inform us immediately. Submit claims via email to the specific program by which you are insured:

- **ATP insureds:** Submit your claims to our TPA, Athens Administrators, via email at ATPclaims@athensadmin.com
- **CPS insureds:** Submit your claims to our TPA, Athens Administrators, via email at CPSclaims@athensadmin.com. Please send church, school and family services claims to CSFclaims@athensadmin.com
- **HabPro insureds:** Submit your claims to our TPA, Athens Administrators, via email at HabProclaims@athensadmin.com
- **KBK insureds:** Submit your claims to our TPA, North American Risk Services (NARS), via email at Reportaclaim@narisk.com
- **Sports & Wellness insureds:** Submit your claims to our TPA, Athens Administrators, via email at SWclaims@athensadmin.com



As a benefit of partnering with NSM Insurance Group, Wayne is available as a resource to help agents and their insureds at any time! Wayne can assist in many ways, from reviewing manuals to visiting a site to discuss loss mitigation.

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