

Expert Insights: Chubb Excess Casualty's Liability Market Analysis



As one of the leading writers of casualty business, Chubb provides expert insight and analysis on liability issues affecting the industry. Partnering with Cozen O'Conner, a widely recognized law firm with a national practice in insurance, litigation, corporate, intellectual property, real estate, labor & employment, and extensive experience in a variety of practice areas, we hope to provide you with periodic, current updates on impactful liability topics.

Over the past several years the insurance industry has been at the forefront of market challenges facing businesses from rising severity claims, challenging legal venues and a lack of meaningful tort reform. Navigating through the wealth of information on various articles, court cases, legal updates, press releases, and other sources of information can be overly burdensome and time consuming. Through these Expert Insights and with the aid and expertise of Cozen O'Conner, we look to provide you with the most timely and relevant topics impacting the liability space.

This first release focuses on two "hot" topics – auto liability lawsuits in Texas and litigation funding. The challenges to insureds, the industry and ultimately the public from these two areas cannot be understated. We believe these recent updates to be positive direction, and hope you find the analysis by Cozen to be informative.

Texas House Bill 19

Texas House Bill 19 was issued in response to the increasing number of lawsuits against commercial motor vehicle companies. The legislation creates a bifurcated trial process for cases involving commercial motor vehicles.

The first stage will determine liability and the amount of compensatory damages. The second stage will focus on the general negligence of the trucking company (such as permissive use and prior violations of the trucking company) and potential punitive damages. Therefore, when a commercial motor vehicle owner is sued after a crash, the jury must first find the driver liable before inflammatory evidence can be

brought in against the trucking company. Additionally, the Bill changes the scope of admissible evidence permitted in the first stage of trial.

The new legislation only permits the admission of evidence regarding regulatory violations in the first phase of a bifurcated trial if the failure to comply with that standard was the proximate cause of the injury and the regulation at issue relates to the applicable duty of care. This, in essence, will shift the focus of the first trial stage back to whether the driver acted negligently and caused injuries to the plaintiff.



HB 19 also permits parties to introduce authenticated photographs or videos of a vehicle involved in the crash into evidence without the need for expert testimony. This change can be helpful with the recent use and advanced technology of truck-mounted cameras. A full copy of the bill can be found here: [Texas House Bill 19](#).

New Jersey Local Rule 7.1.1

Under Local Rule 7.1.1, New Jersey federal courts will require parties to a lawsuit to disclose details about third-party litigation funding within 30 days of the filing of a new matter. The Rule requires disclosure of any partial or complete funding of attorneys' fees and expenses in exchange for either a contingent financial interest based upon the results of the litigation or a non-monetary result that is not in the nature of a personal or bank loan or insurance.

The disclosure must (1) identify the name and address of the funding company, and if an entity, its place of formation; (2) state whether the funding company's approval is necessary for litigation decisions or settlement decisions; and (3) describe the nature of the funding company's financial interest.



Additional discovery on the litigation funding is also permitted upon a showing of good cause. The Rule is in response to the increasing frequency of meritless litigation, as well as judges' efforts to avoid a conflict of interest where the judge is affiliated with the funding company. This change is effective immediately. A copy of the Order can be found at the following link: [Order re: NJ LR 7.1.1](#).



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Cozen O'Connor

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