



# WHEN STANDARD COVERAGE ISN'T ENOUGH: THE CASE FOR UMBRELLA & EXCESS LIABILITY

SEPTEMBER 2025

NORTH RISK WEBINARS | 2025



# PRESENTERS



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# LOGISTICS

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Ask questions via the Questions box



Two-question survey at the end



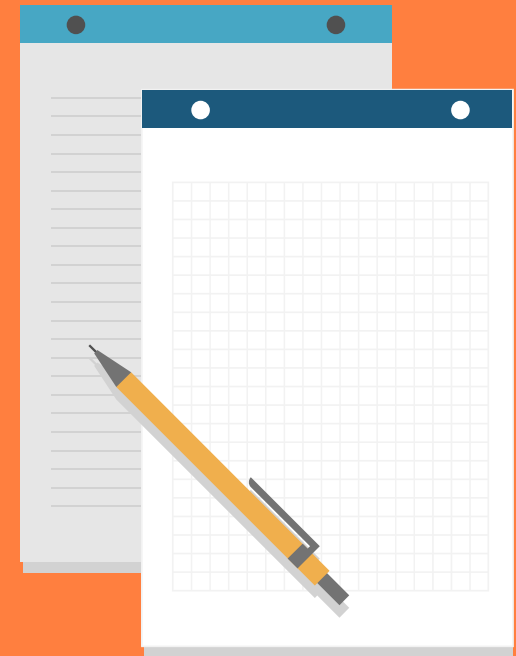
Webinar is recorded

✉ Follow-up email sent tomorrow with link to slides & recording!

# AGENDA

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- Umbrella and Liability Fundamentals
- Excess Liability Fundamentals
- Nuclear and Thermonuclear Verdicts
- Umbrella & Excess Liability in Commercial insurance programs
- Risk management considerations
- Q&A / Closing



# UMBRELLA POLICIES

## How do umbrella policies work with underlying policies?

1. Primary Coverage First: If you are liable for damages (e.g., a car accident or someone injured on your property), your underlying insurance pays up to its policy limit.
2. Umbrella Kicks In: If the damages exceed the limit of your underlying policy, your umbrella policy covers the remaining amount, up to its own limit.

**Example:** You cause a car accident and are sued for \$1 million.

- Your auto insurance covers \$300,000.
- Your umbrella policy covers the remaining \$700,000.

# UMBRELLA POLICIES

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- Extended Liability Coverage
- Provides coverage above and beyond the limits of your auto, homeowners, or other primary policies.
- Typically starts at \$1 million and can go much higher.
- Covers a Wide Range of Situations
- Protects against bodily injury, property damage, and personal liability.

# UMBRELLA POLICIES

- Includes coverage for incidents like:
  - Lawsuits for libel, slander, or defamation
  - False arrest or detention
  - Invasion of privacy
  - Worldwide coverage
    - Many umbrella policies offer protection anywhere in the world, not just in the U.S.
- Affordable Premiums
  - Despite high coverage limits, umbrella insurance is generally inexpensive – often \$150-\$300 per year for \$1 million in coverage.
- Legal Defense Costs

# EXCESS LIABILITY POLICIES

## What is an Excess Liability Policy?

An excess liability insurance provides additional coverage limits above those offered by your primary (underlying) liability policies, such as auto, homeowners, or commercial liability insurance.

# EXCESS LIABILITY POLICIES

## Key Characteristics of Excess Liability Insurance

- Adds More Coverage – Not Broader Coverage
  - Increases the dollar amount of liability protection.
  - Does not expand the types of claims covered – only applies to claims already covered by the underlying policy.
- Follows the Terms of the Underlying Policy
  - Often referred to as a “follow form” policy, meaning it adheres to the same terms, conditions, and exclusions as the base policy.
- Single Policy Focus
  - Typically tied to one specific underlying policy, such as a commercial general liability (CGL) or auto liability policy.

# UMBRELLA VS. EXCESS LIABILITY

Feature	Umbrella	Excess Liability
Coverage Type	Adds limits and broadens coverage	Adds limits only
Policy Scope	Multiple underlying policies	One underlying policy
Additional Protections	Yes (e.g., libel, slander)	No
Legal Defense Costs	Often included separately	Follows base policy

# NUCLEAR VERDICTS - AUTO

## **AJD Business Services - \$1 Billion Auto Liability Verdict (2021)**

- Case Summary: A distracted truck driver employed by AJD Business Services caused a fatal crash on I-95 killing an 18-year-old college student. The driver lacked proper licensing, was over the legal hours, and had a history of prior accidents.
- Verdict: A Nassau County, FL jury awarded:
  - \$100 million for pain and suffering
  - \$900 million in punitive damages
- Insurance Coverage: AJD had only \$1 million in liability coverage.

# NUCLEAR VERDICTS - AUTO

## **Wabash National - Trailer Manufacturer - \$462M Verdict (2024)**

- Case Summary: A fatal crash in 2019 led to a lawsuit against Wabash National for a defective trailer design.
- Verdict: A St. Louis jury awarded \$462 million
  - Later reduced to \$108 million.
- Insurance Coverage: The company's liability coverage was reportedly far below the awarded amount, leading to major financial exposure.

# NUCLEAR VERDICTS - AUTO

## Landstar Ranger & 2A Pilot Cars - \$730 Million Verdict (2021)

- Case Summary: A 73-year-old woman was killed when her vehicle collided with a truck hauling a 197,000-pound propeller for a nuclear submarine. Escort vehicles failed to properly manage the load.
- Verdict:
  - \$480 million in compensatory damages
  - \$250 million in punitive damages
- Insurance Coverage: Landstar settled for \$50 million prior to trial, but the remaining defendants faced massive exposure.

# NUCLEAR VERDICTS - AUTO

## Top Auto Express - \$411 Million Verdict (2020)

- Incident: A tractor-trailer jackknifed in heavy rain, causing a 45-car pile-up. A motorcyclist was severely injured.
- Verdict: \$411 million
- Insurance Coverage: The company's coverage was far below the awarded amount.

# NUCLEAR VERDICTS

## **Auto/Trucking - Industry-Wide Impact**

- In 2023 alone, trucking companies faced \$165 million in nuclear verdicts.
- The average trucking verdict between 2020-2023 was \$27.5 million, up from \$2.3 million in 2010.
- Many small and mid-sized carriers are unable to secure sufficient coverage, leading to bankruptcy or closure after a single verdict.

# NUCLEAR VERDICTS - MED MAL

## **\$183 Million Medical Malpractice Verdict (2023)**

- Case Summary: A jury awarded \$183 million to a single plaintiff in a medical malpractice case—the largest ever in Pennsylvania.
- Insurance Impact: The provider's policy limits were far below the awarded amount, leaving them personally liable for the excess. This case highlighted the critical need for higher limits in high-risk specialties.

# NUCLEAR VERDICTS - MED MAL

## Multiple Physicians - Verdicts Exceeding \$25 Million

- Trend: In 2023, there were multiple jury awards exceeding \$25 million against individual physicians and healthcare institutions.
- Insurance Gap: Many of these professionals carried \$1M - \$3M policies, which were insufficient to cover the full verdicts, resulting in out-of-pocket liability or bankruptcy.

# NUCLEAR VERDICTS - MED MAL

## Common Scenario: \$1M Policy vs. \$1.5M Verdict

- Example: A physician with a \$1 million policy limit faces a \$1.5 million malpractice verdict.
- Outcome: The physician must pay the \$500,000 excess personally.
- Insight: This scenario is increasingly common, especially in surgical and obstetric specialties, where claim severity is rising.

# NUCLEAR VERDICTS - CONSTRUCTION

- Case Summary: A motorist was severely injured after colliding with unattended construction equipment left on a highway.
- Verdict: A Florida jury awarded \$20 million in damages.
  - The construction company was found to have failed to properly secure the equipment.
- Insurance Impact: The company did not carry sufficient liability coverage to absorb the full verdict.

# NUCLEAR VERDICTS - CONSTRUCTION

- Between 2010 and 2019, the average award for general liability verdicts in construction increased by 224%, with many cases exceeding \$10 million.
- These verdicts often outpace standard commercial general liability (CGL) limits, which are typically \$1M - \$2M per occurrence.

# CARRIER / INSURANCE MARKET RESPONSE

- Pulling back on high-limit offerings (e.g., \$5M+ policies).
- Becoming more selective about who they insure
- Businesses with poor safety records or prior claims may be denied coverage or face exclusions.
- Increased Use of Self-Insurance & Captives
  - Large companies are turning to self-insurance or forming captive insurance companies to manage risk.
- Policy Rewriting & Exclusions
  - Insurers adding more exclusions (e.g., for punitive damages, certain jurisdictions)
  - Push for tort reform in states with frequent nuclear verdicts.

AK1

## Slide 21

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**AK1**

What is the impact of tort reform on some of these maximum liabilities that are non inclusive of economic damages? Especially when you start to look at the punitive damages awards in some of these cases in particular.

AJ Krist, 2025-09-24T12:36:06.925

# CARRIER / INSURANCE MARKET RESPONSE

## Minnesota Tort Reform

- No single sweeping tort reform bill has been passed recently the state is actively involved in legislative efforts targeting:
  - Phantom damages: Inflated medical billing practices used to calculate damages.
  - Third-party litigation funding (TPLF): Calls for transparency in cases where outside investors fund lawsuits.
  - Attorney advertising and jury anchoring: Concerns over tactics that influence juries toward excessive verdicts.

# CARRIER / INSURANCE MARKET RESPONSE

## Iowa Tort Reform

- Iowa has enacted significant tort reform, particularly in the area of medical malpractice:
- Governor Kim Reynolds signed a law in February 2023 that caps non-economic damages (e.g., pain and suffering) at:
  - \$1 million for health care providers like nursing homes.
  - \$2 million for hospitals.
  - These caps will increase by 2.1% annually starting in 2028 to account for inflation.
  - The law does not cap economic damages or punitive damages in cases of **willful** misconduct.

# CARRIER / INSURANCE MARKET RESPONSE

<u>Impacted Area</u>	<u>Result</u>
<b>Small Businesses</b>	May be underinsured or priced out
<b>Consumers</b>	Higher premiums
<b>Legal System</b>	More settlements, fewer trials
<b>Insurance Industry</b>	Profitability pressure, market exits

# INSURANCE MARKETPLACE AND RISK MANAGEMENT CONSIDERATIONS



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# MARKET TRENDS



**SOCIAL INFLATION AND LEGAL SYSTEM ABUSE INCREASING**



**LITIGATION FINANCING PLAGUING THE SYSTEM**



**GEOPOLITICAL RISKS (POTENTIAL WARS AND CONFLICTS)**



**CONVECTIVE STORM ACTIVITY AT ALL TIME HIGHS**



**CAPACITY RESTRICTIONS STARTING TO BUBBLE UP**



**ECONOMIC AND POLITICAL UNCERTAINTY GIVING PAUSE**



**NCCI SPLIT POINT CHANGES IMPACTING MOD FACTORS**

# IMPACT OF SOCIAL INFLATION

- **Contributing Factors**

- **Social inflation:** juror attitudes towards insurers and corporations
- **Litigation financing:** third party funding is increasing plaintiff resources
- **Venue Volatility:** certain jurisdictions like California, Texas, Florida, New York are more prone to large verdicts

# NUCLEAR & THERMONUCLEAR VERDICTS

Nuclear verdicts defined as jury awards exceeding \$10 Million and thermonuclear a more extreme subset exceeding \$100 million

- 2024 saw over 100 verdicts exceeding \$10mm and 12 verdicts reaching the thermonuclear level.
- 2025 already YTD has seen 7 thermonuclear verdicts with several exceeding \$500mm particularly in product liability and wrongful death cases.
- Median awards have now approached \$44mm

# NOTABLE VERDICTS

## ◆ Notable Verdicts (2024–2025)

Year	Case Type	Verdict Amount	Jurisdiction
2024	Product Liability	\$1.2 billion	California
2024	Commercial Auto	\$411 million	Texas
2025	Medical Malpractice	\$325 million	Florida
2025	Premises Liability	\$150 million	Georgia
2025	Employment Discrimination	\$210 million	Illinois

# HOW'S THAT FOR POSITIVITY?

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# MARKET EXPECTATIONS

- **Market Projection:**
  - Entering a phase of cautious optimism after years of hard market conditions.
  - Signs of stabilization, but risks and challenges remain.
- **Key Influences Impacting the Market:**
  - Emerging risks are changing how coverage is assessed and priced.
  - AI evolution brings both opportunities and vulnerabilities –particularly in the realm of cyber risk.
  - Geopolitical instability adds complexity to global risk portfolios.

# MARKET EXPECTATIONS

- **Excess Liability:**
  - Still remains under pressure.
  - High-hazard sectors (e.g., transportation, real estate, heavy manufacturing) face tight underwriting.
- **Despite some Stabilization in Rate Increases:**
  - Capacity remains constrained.
  - Many carriers are reducing line sizes, often capping limits at \$2-\$3 million per layer, which has led to more layered and quota-share structures.
- **Looking Ahead to 2026:**
  - The excess casualty market is expected to stay firm.
  - Cost drivers (defense costs, claims, and inflation likely to persist).
  - Carriers are more selective.
    - Focus on loss history and attachment points
  - For clients, strong submissions, safety culture, and claims management are key.

# Q&A AND CLOSING COMMENTS

