

Social Inflation's Impact on Public Entity Liability Costs

Substantial jury awards caused by social inflation can jeopardize a company's operations, but the phenomenon can also ripple into other aspects of organizational costs. We uncover three additional risks posing a threat to public entities.

March 28, 2022



Jury demographics, anti-corporate sentiments, and trends in inflated verdicts have [contributed to social inflation](#) and large jury awards in courtrooms. Carriers and defense counsel work tirelessly to combat its effects. Still, until jurors understand its primary harm to policyholders or until legal reform addresses the problem, it is here to stay.

"Social pessimism has led to a loss of faith and desire for change, motivating people to shift their trust over to things they can control, like verdicts," said Codi Bolding, Director – Public Entity Underwriting at Safety National. "Unfortunately, this attitude can lead juries to be biased toward the rights of plaintiffs, thinking businesses should bear a greater share of responsibility than individuals, regardless of not being found negligent."

Preparing for these associated challenges may be beneficial to any enterprise.

Rising Claims Costs

The medical costs attributed to third-party liability claims continue to increase with surgeries, procedures, materials, care and pharmaceutical costs outpacing inflation. Medical advances have made survivability more likely, where an accident may have previously proved fatal, creating longevity in catastrophic claims. With the public more aware of the elevated medical costs, a higher compensatory award suggested by a plaintiff may seem more reasonable to a jury. Unfortunately, higher claims costs have translated into increased premium trends in the

industry. A sound risk management program can help policyholders mitigate or prevent losses to help combat these effects of social inflation.

Increased Litigation Expenses

A positive case outcome, where a public entity is found not liable, may still not circumvent the overall expense. A public entity could spend millions building a defense, which has become exceedingly more common as the plaintiff may have less incentive to settle in the wake of litigation financing that allows a company or individual to finance a plaintiff's case in exchange for a percentage of the settlement. Immunity defenses that may have once protected certain municipalities may no longer be available due to the changes in legislation or legal landscape, making litigation more attractive to a savvy plaintiff's attorney.

Budgeting Challenges

Civil unrest, police misconduct and many other new concerns have forced some insurance carriers out of the liability market due to unsustainable premiums. Those carriers that continue to offer liability coverage may have cut multi-million dollar limits, offering half of what they once did. This results in some public entities building layers of coverage through multiple carriers, paying additional, unexpected premiums. Inconsistency in insurance costs and overall coverage predictions creates substantial budgeting concerns, and future forecasting becomes nearly impossible. Some entities will decide to go bare on their liability coverage entirely to offset the costs, determining that the risks outweigh their benefits.
