



Property & Casualty Insurance Market Update

Hard Insurance Market Strategies
and Covid19 Litigation Update

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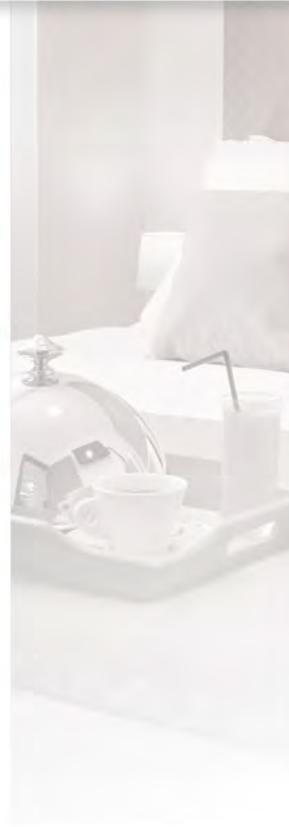
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Insurance Hard Market Symptoms

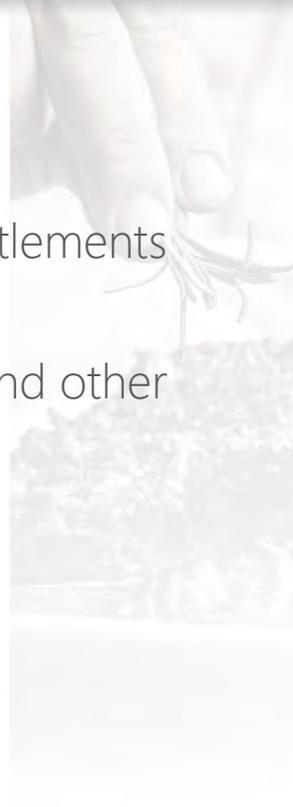
1. Unprofitability (ROI less than 15%)
2. Low Interest Rates (Investment Income impact)
3. Increase in the frequency of large losses
4. CAT Losses (911, Floods, etc.)
5. Reduction in capacity (Competition among Insurance Carriers)
 1. Insurance companies are focused on profit improvement not growth
6. Reinsurance Market restrictions/pricing increases

NOTE: In the past four hard market cycles – only one or two of these issues caused changes - for the first time in 50 years, we have all six going on at the same time! PLUS



Insurance Hard Market Symptoms

- **PLUS!**
 - Major change in Jury psychology – large jury verdicts and larger settlements
 - Eastern Washington Wild Fire claims
 - Covid19 – General Liability losses for LTC / Assisted Living Facilities and other healthcare entities
 - Civil unrest/Seattle – Portland riots



- **Why are underwriters asking so many questions and requiring extensive applications – most specifically around Employment Practices Liability and Covid19 Protocols?**
 - EPLI market update
 - Reinsurers are requiring that front line insurance companies outline how they are managing potential third party liability losses from Covid19 as businesses re-open

I never filed a claim – why are my premiums going up?

- Everyone contributes to large CAT or severity claims
- Those with no losses (on average) receive smaller premium increases in hard market cycles than those with loss issues

Landscape of COVID litigation

- **Nationwide – rulings have been in favor of insurers**
 - Majority of cases have been dismissed with courts either relying on the virus exclusion or finding that there was no property damage to trigger coverage
 - Majority of the lawsuits have been filed in federal court
- **In Washington – there have been initial positive rulings for insureds**
 - Most lawsuits are small personal service businesses (e.g., hair salons, dentists) and public gathering businesses (e.g., restaurants, bars)
 - Most cases are pending in federal court with some in state court. In federal court (Western District of WA) there is a pending motion for the judge to certify the key issues to the WA Supreme Court of decision
 - Two cases in WA state court have initial rulings in favor of insureds –
 - *Hill and Stout PLLC v. MOE* – denying a motion to dismiss the court found that “physical loss of” language in the policy is ambiguous and subject to the insured’s reasonable interpretation that the business closure via governor’s order may constitute physical loss
 - *Perry Street Brewing Company v. MOE* – the court granted partial MSJ in favor of insured finding that insured had a deprivation of its business property through closure and that the policy language of “loss of” and “damage to” are distinct and subject to reasonable interpretation

COVID Litigation Tracking Sites

- <https://cclt.law.upenn.edu/cclt-case-list/>
- [https://content.next.westlaw.com/Document/If80a0d3879ae11ea80afece799150095/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://content.next.westlaw.com/Document/If80a0d3879ae11ea80afece799150095/View/FullText.html?transitionType=Default&contextData=(sc.Default)&firstPage=true)
- https://www.sdvlaw.com/coronavirus_news.asp

Hard Insurance Market Strategies

- Examine claims history and reduce future potential for loss (What do underwriters see when they examine your claims history?)
- Review and mitigate exposure to loss: Frame unsprinklered properties, “over-serving” alcohol policies, Employment Practices Liability policies, Cyber security protocols, life safety protocols, Covid19 safety measures, security, etc.
- Higher deductibles (more skin in the game)
- Start renewal process early – quality underwriting data required!
- Invite current and prospective underwriters to examine your exposures and offer risk mitigation strategies



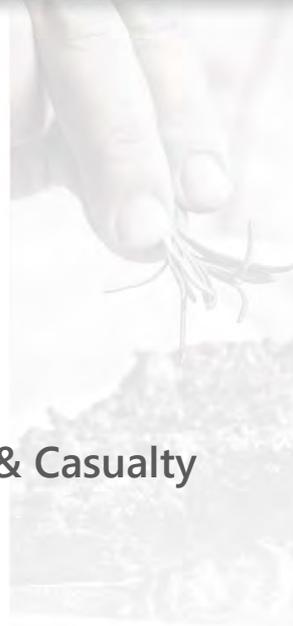
Insurance Program

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QUESTIONS?



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Check Out! [MyHospitalityInsurance.com](https://www.myhospitalityinsurance.com)

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