



FOCUS ON MUNICIPALITIES

A steady market despite increasing pressure

By Lori Widmer

It is touted as the second largest verdict in the United States. In 2016, the State of Nebraska was found liable for the death of Tyler Thomas, who was allegedly murdered by a fellow student at Peru State College. Her body was never found. The expected cost to the state—\$2.64 billion.

While the case was overturned on appeal, the monetary damages, had they been imposed, could have had a devastating impact on the state. In fact, claims severity within the municipalities market is on the


rise, as more of the country's largest claims settlements and verdicts are coming out of the public sector.

So says Derek Broaddus, senior vice president of the Excess Casualty division of Allied World. "Two of California's top 10 personal injury verdicts for 2016 were levied against public entities: \$22.5 million in *McCoy v. California Department of Transportation*, and \$12 million in *Hukill, et al. v. California Department of Transportation*," Broaddus adds. "We expect this trend to continue upward due to the extraordinary news coverage of items like police professional liability."

Catalina Sugayan, a partner at

Clyde & Co., agrees. "Law enforcement excessive force and wrongful conviction claims can present significant exposures to municipalities and their insurers. These claims are brought against municipalities, their officials and employees, and can include state tort and federal constitutional claims."

Such wrongful conviction exposures, says Sugayan, include sizable exposures. "Chicago's \$31 million settlement with the 'Englewood Four,' who spent 15 years in prison for a 1994 rape and murder; a \$15 million verdict against the Baltimore Police Department and two detectives in favor of a man who was exonerated after nearly 20 years of incarceration; and verdicts totaling



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\$28 million against Gage County, Nebraska, and its sheriffs to the 'Beatrice Six,' who were incarcerated for about 20 years before being exonerated based on DNA."

The state of the market

Even with such increasing pressure on municipalities, the insurance market is steady. "Competition is about the same as it has been in the past year, without much change," says Mark McCrary, president of Glatfelter Public Practice. "There are a few players every year who seem to test the segment—that remains pretty consistent. Depending on the geographic location, claim activity and a few other factors, most municipalities will see a fairly consistent marketplace in the 2018 cycle, in our opinion."

According to Joel Steber, executive general adjuster at Engle Martin & Associates, P-C volume around weather-related activity has made claims handling a bit of a challenge in the municipalities space. Also, claims handling has become a bit of a challenge in the municipalities space. "We see a lot of complex policies, which list many insurance carriers splitting the risk. These quota-share scenarios create varying requirements across the carriers represented. Only experienced adjusters can work through the maze of key performance metrics, coverages,

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Glatfelter Public Practice

to be covered under risk pool master policies."

Frost says markets right now are split into those focused on lower deductible attachments and those holding higher self-insured retentions. "These larger retention markets are continually monitoring and setting their minimum attachment points based on severity of loss trends," Frost says. "Carriers are managing their capacity deployments, as well, limiting their vertical exposure in a layer, and necessitating more participants to fill an expiring tower of liability coverage."

Carriers are also reconsidering coverage or premiums in certain areas. "Following a decade of softening, the casualty insurance market for public entities saw firming in 2016, with

president, Great American Public Sector. Accounts with unfavorable loss history are seeing rate increases, though accounts with a more favorable loss history are securing flat or small increases in premium. "Several years ago, we saw a few new markets beginning to write municipalities, as well as a few existing markets taking broad corrective actions with their portfolio," Rohr says. "This has now leveled off and stabilized."

Even so, he says, carriers are adding to their traditional core coverage offerings. "These additional items include products such as cyber, which most have been evaluating for a while, but are finally starting to purchase and implement," Rohr explains. "Additionally, some insureds have opted to increase excess liability limits in response to escalating settlements or verdicts from federal exposures not otherwise subject to tort caps."

Other new products being considered, says Frost, include stand-alone coverages such as cyber liability, active shooter, sexual molestation, terrorism (non-certified acts), and unmanned aerial vehicle liability.

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Senior Vice President, Excess Casualty division
Allied World

payments, and reporting guidelines set forth by each of the insurance company participants."

That's a focus that Brian Frost, executive vice president, casualty at AmWINS Insurance Brokerage of California, says will continue to drive the public entity liability market. "The public entity liability marketplace remains a relatively focused and specialized set of carrier and underwriting facility participants, as well as pool options in certain jurisdictions," he says.

And the number of insurance pools is on the rise, Steber notes. "In order to drive premiums down, city and county managers often seek the opportunity

pockets of hardening," says Broaddus. "This trend has continued over the past 24 months. There are a multitude of factors that have led to this, including declining results in the sector, market exits, medical cost inflation, increases in claim severity, increased media attention on law enforcement activities, and new exposures such as traumatic brain injury/concussions and employment practices liability."

The coverage story

In spite of the challenges, the marketplace for municipality insurance is still robust, says Scott Rohr, divisional

Claims and drivers

These new products speak to the evolving risks facing municipalities. Drone use and cyber liability are becoming more prevalent, says Rohr, and municipalities are attempting to secure coverage and clarify the risks. McCrary says that interest has increased in the cyber coverage arena, enough so that his company has added a cyber extortion product. As for drones, McCrary thinks few understand the risks. "Many do not think about the negative ramifications and liability concerns of an errant drone that could cause significant damage. Given the increased use of drones by police, fire rescue, water entities and other organizations, it is an important coverage to consider. Public entities should also extend their umbrella over their liability coverage. Not doing so

limits the coverage typically to \$1 million per occurrence, which may not be enough to adequately cover a potentially catastrophic claim.”

When it comes to claim drivers, McCrary says auto liability remains challenging. “Results overall are less than desirable and frequency, in particular, is concerning. It’s helpful, and suggested, for agents and brokers to emphasize risk control, training, and safety with their insureds. Public entities in the broadest sense, including risks for schools and municipalities, can have a fair number of specialized automobiles—from school buses and vans to 72-passenger buses and police vehicles. The exposures can be significant.”

Also, McCrary says municipalities with police forces are vulnerable to claims involving excessive use of force or false arrests, among others. “Studies have shown risk control measures, like body cameras and GPS, have markedly decreased claims against police departments and municipalities,” he adds.

Even the traditional risk areas are seeing claims on the rise, says Steber. “Based on the volume of properties and structures a municipality has, it is especially prone to any sizable catastrophic event. Thus, the recent Hurricanes Harvey and Irma, wildfires in California, and hail and wind storms in the Midwest have created a spike in claims.”

Advice for agents and brokers

For agents and brokers approaching municipalities and public entities customers, Frost recommends really knowing the market. “Successful engagement and selling of the public entity account involve a significant value contribution to the municipality and the underwriting community. With unique and non-ISO based coverage forms used, it is important to have deep product knowledge,” Frost suggests. “With a limited market roster, it is also critical to know the players and their respective appetites, to ensure that all viable underwriting options are contemplated and presented for consideration.”

That includes knowing how to approach both submissions and claims. “Complete submissions are key,” Rohr says. “This includes data on ground-up losses, narrative regarding key differentiators, claims handling, and, if it’s a large retention and a complete application, inclusive of exposures unique to municipalities. Producers need to be able to identify any potential gaps in coverage and effectively outline the cost versus the benefit of additional coverage.”

McCrary agrees, saying an agent’s comfort level with the product is also

critical. “When agents understand the product and can explain differences between programs, they become more valuable to the insured in terms of comparing options,” he says. “The more an insurance professional understands the offering and the nuances, the better he or she can explain it to the public entity.” ■

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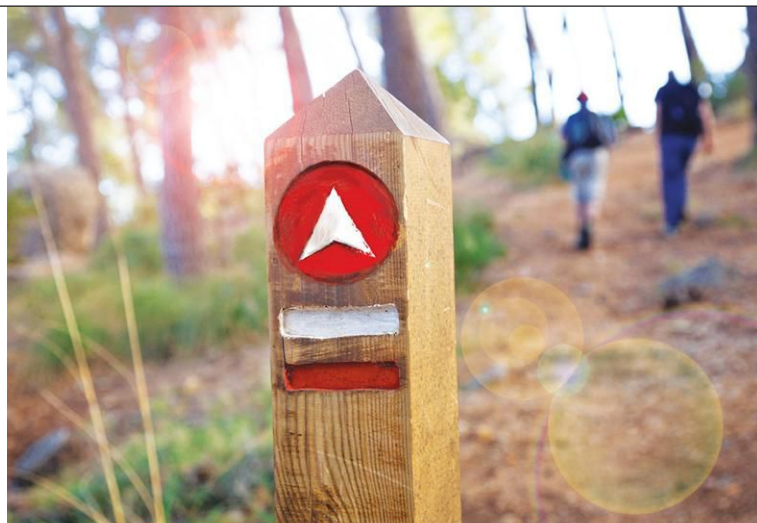
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