



Concussion-related claims insurance recovery

Integrated Casualty Consulting

Many organizations are facing concussion-related litigation, including professional sports leagues and teams, universities and colleges, as well as high school and youth sports programs. Former players generally allege they were misled about the danger of concussions, the injuries they suffered while playing were ignored or mistreated, and that they are suffering from neurological and cognitive problems related to those injuries. Representatives of deceased players may allege the player contracted CTE (chronic traumatic encephalopathy — a degenerative brain disease found in athletes, military veterans, and others with a history of repetitive brain trauma). At present, a definitive test for CTE can be made only by examining the brain tissue of a deceased victim.

These exposures can have a significant negative financial impact on the defendant organizations. Fortunately, historic insurance assets can provide critical funding for defense and settlement/verdict costs. The policies most likely to cover these claims are those in force from the time the alleged head injuries began through the date of the plaintiff's death, the date the plaintiff was diagnosed with injury or the date they filed suit, whichever is earlier. However, negotiating the respective participation of numerous insurers can be difficult. Each will likely assert a number of defenses to coverage. For example:

- Lack of fortuity, no "occurrence"
- No allegations of bodily injury during the policy period
- Application of self-insured retentions or deductibles

What services we offer

Insurance archaeology

We reconstruct historical insurance programs and assist you in locating policies by:

- Reviewing internal historic records and archives
- Interviewing current and former personnel
- Contacting former insurance brokers
- Helping to identify and contact other potential outside sources of policy information
- Contacting insurers to coordinate additional research

Insurance claim dispute resolution

We help clients avoid the risk, expense and delay of coverage litigation by leading or supporting insurance recovery efforts by providing:

- Consultative advice and guidance on the development and execution of insurance recovery strategies
- A channel of communication to senior, "decision maker" claim contacts at major insurance markets

Loss allocation modeling

We can analyze how insurance programs may offset losses, and we offer solutions to provide you with:

- Mathematical results to develop settlement demands and support settlement strategy
- A framework for analyzing positions taken by insurers during settlement negotiations
- The ability to test the financial impact of varying assumptions about legal uncertainties
- An estimation of insurance asset value available to offset current and potential future liabilities
- Analysis of cash flow requirements

Insurance asset size estimation

Valuing insurance receivables — we help you understand how key variables may impact the value of potentially available coverage. These variables often include:

- Choice of law used to interpret the insurance contracts
- “Vertical” versus “horizontal” exhaustion
- Prior limit erosion/exhaustion
- Trigger of coverage theories
- Loss allocation method applied
- Number of “occurrences” at issue
- Insolvent insurers
- Applicability of aggregate limits
- Gaps in coverage
- Treatment of defense costs
- Applicability of deductibles/self-insured retentions
- Relevant coverage exclusions
- Applicable clauses/provisions
- Prior settlement(s) with insurers
- Shared coverage
- Limits available under multi-year insurance contracts or “stub” policies

Willis Towers Watson has a dedicated liability consulting team that can deliver results; we are uniquely suited to help you with claim solutions.

For additional information contact:

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About Willis Towers Watson

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