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Rising General Liability Losses in Insurance and the Impact on Hoteliers

By John Welty, President, SUITELIFE Underwriting Managers, Ryan Specialty Group | June 13, 2021

Businesses in the hospitality industry have faced a seemingly endless number of challenges since the pandemic began. These include travel restrictions, mandatory lockdowns, and reduced staffing, among others. With many being forced to close and others struggling to get back on their feet, these businesses have filed claims related to COVID-19 in an attempt to recoup losses.

Unfortunately for many business owners, including hoteliers, many insurers are rejecting these claims and most news headlines show the court's ruling in favor of the insurers. That said, general liability losses are on the rise across all industries and as these claims get paid out, these awards will impact insurance premiums, costing business owners including hoteliers.

One of the main culprits is social inflation. Simply put, social inflation means claimants' liability claims cases are receiving much larger awards and compensation across all industries. This puts the burden of costly payouts not only on the companies that insure them, but eventually on other insured businesses like hotels that are already struggling to survive.

Moreover, social inflation is affecting insurers' loss ratios and rates, which then translates to increased premiums for business owners, like hotels. These premiums are the annual monthly fees hotels must pay to their insurers in exchange order to provide receive adequate coverage to protect them in the event of covered claims.

To say the responsibilities of hotel management have increased in recent months would be an understatement. New pandemic cleaning and social distancing protocols are keeping hoteliers on their toes as they work to ensure that their guests, visitors and employees can enjoy a clean and safe experience. Unfortunately, this focus on COVID-19 cleanliness has led many to place less emphasis on basic safety protocols, such as those for slips, trips and falls and accident reporting.

Reduced staff and a more rigorous focus on housekeeping may lead to a reduced focus on accident prevention, accident reporting and security. Less emphasis on accident prevention and safety does result in more accidents. In addition to physical security threats receiving less attention, cybersecurity has also taken a back seat for many hoteliers. Cyber criminals have been using the pandemic as a way to attempt to infiltrate hotel businesses.

According to this article from CoStar, hackers and cyber criminals began targeting hotels more frequently with phishing emails– fraudulent emails meant to get the recipient to divulge private information or allow a virus to corrupt their network – by pretending their message was related to the pandemic. Further, with some employees having to work remotely, this only increased the number of attempts by cyber criminals on hotels and their staff.

Some of the main factors contributing to the trend of social inflation include the higher frequency of severity claims related to the issue noted above, as well as increased wildfires and other natural disasters, sympathetic juries, and an aggressive plaintiff's bar. Combine these factors with the added impact of the pandemic, and large corporations and businesses like hotels may bear the brunt of the damage.

Being a Bigger Target

Last year, Amwins published an article in which they discussed one of the main factors leading to social inflation – a growing contempt for large corporations. The article specifically cited the 2008 financial crisis, when the housing bubble burst, causing the value of securities that were mortgage-backed to plummet and financial institutions around the world to suffer significant losses.

Now, in the midst of a global pandemic, small businesses nationwide have been forced to close. These closures are causing more people across the country to suffer financial hardship. This impact is a ripple effect from hotel to restaurants to suppliers affecting all employees. The negative sentiment against larger corporations combined with dramatically increased financial pressure opens the door to plaintiffs seeking larger awards when given the opportunity to file a claim. This affects both primary casualty and umbrella lines of coverage.

Despite insurers and their clients largely winning their cases in court, with the increasing frequency of severe claims, these payouts take up a significant percentage of settlements as a whole. According to PC360, 74 class-action lawsuits in the U.S. in 2019 totaled $2 billion, with four of the largest costing more than $100 million each. These numbers accounted for only 5 percent of all cases, but 45 percent of settlement dollars. And, consider, this trend happened in a pre-pandemic world.

The National Law Review noted the filing of more 1,300 employment complaintsalone were related to COVID-19 in 2020. As more people continue to navigate the repercussions of the pandemic, it is likely even more severe claims will emerge as we move into the second half of 2021. This will continue to drive general liability losses upward, especially if these court cases become less favorable for hoteliers and other large corporations.

Elevated Catastrophic Activity

Another factor contributing to the rise in general liability losses impacting hoteliers is catastrophic (CAT) events such as wildfires, hurricanes, deep freezes and other natural disasters. Every part of the country has been impacted by CAT events.

In the Gulf Coast states, hurricanes have continued to cause devastation. During the 2020 hurricane season, a record 11 storms made landfall, including Hurricanes Isaias, Laura, Sally, Zeta, Delta and Hanna. In the West, wildfires have ravaged parts of the country, and the data shows these fires are getting worse every year. In Texas and Louisiana, as well as some states in the Midwest and Northeast, winter storms and freezes caused mass power outages and other extensive infrastructure issues. In Michigan, excess precipitation was a factor in a dam collapse, causing widespread flood damage and extensive insurance claims.

All of these events were terrible tragedies that continue to play a role in the increase and severity of claims around the country year in and year out. According to the Insurance Information Institute, natural catastrophe losses rose to $74.4 billion in 2020. This is a significant increase from 2019, which experienced natural catastrophe losses of $39.6 billion. These numbers include losses sustained by both government-insured programs and private insurers.

For businesses like hotels navigating the pandemic, the damage caused by CAT events occurring at an increased rate over the past few years only amplifies the financial burden and stress they're facing, especially in addition to the rising general liability claims related to both go to court.

A Sympathetic Jury and Aggressive Plaintiff's Bar

We're also noticing an increasingly negative perception of larger corporations, which will naturally have an effect on jury decisions. This is another aspect of social inflation impacting the hotel industry. Given the circumstances, COVID-related cases will assuredly include plaintiffs with whom jurors will sympathize and possibly identify with given the challenges imposed on everyone by the pandemic. Insurance carriers and hoteliers are getting hit hard by juries, not due to the insurance coverage issues, but because of jury sympathy. In many cases, in the mind of a juror, hotels and their insurers have plenty of money, so these jurors want them to pay.

Additionally, according to this story from PC360, the plaintiff's bar is increasingly using jury consultants and psychologists. Tactics like these affect settlements and what juries are awarding to claimants, usually ending in higher claims for insurers to pay that ultimately translate to increased premiums for other insureds, like hotels.

As Amwins notes, "investors" who see the potential of a severe claim being brought to court are funding plaintiffs to get a portion of what the jury may award or what a settlement will pay. This includes covering legal fees and expenses. At the same time, the plaintiff's bar is driving up the amount rewarded in these cases by using a variety of tools like social media and advertising, which is swaying juries to reward plaintiffs with more compensation and larger settlements.

All of these things are playing a role in driving social inflation, which continues to put hoteliers at risk of costly litigation and settlements they simply can't afford to pay as more plaintiffs file expensive claims against their businesses.

The Impact on Hoteliers

As general liability claims against hotels continue to increase in severity and frequency, hoteliers will need to be prepared for higher premiums, as well as what this all means in terms of securing the proper coverage to protect their business.

The growing risk exposures caused by CAT events has led to rate firming pressures that make getting insurance coverage for large, medium and small properties like hotels more expensive. This market outlook by Risk Placement Services suggests that property owners could see some of the largest price increases this year, while for more than a decade they had previously experienced rate reductions.

Despite rising costs, the fundamental approach to safety and security must always remain a priority. Traditional risk exposures affecting hoteliers and their businesses haven't gone anywhere. Slips, trips and falls, active shooter risks, and human trafficking still need to be addressed with a proactive approach to mitigating risk. Hoteliers can work with an insurance partners who specializes in the hospitality industry to understand how to best mitigate their property's unique risks.

Although COVID-19 has presented numerous challenges over the past year, hoteliers who take all risks into account while continuing to adapt to these new challenges caused by social inflation, will be able to continue to navigate the pandemic confidently, stay prepared and strengthen their business going forward.

Mr. Welty

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Extended Biography

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