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# HOW COVID-19 HAS CHANGED THE INSURANCE LANDSCAPE FROM AN UNDERWRITING AND CLAIMS PERSPECTIVE

2021 PARMA ANNUAL RISK MANAGERS CONFERENCE  
FEBRUARY 3, 2021 – 2:00 P.M. TO 3:15 P.M.  
REMOTE ACCESS VIA ZOOM

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# THE CURRENT STATE OF THE CASUALTY INSURANCE MARKETPLACE

Margaret Zechlin, Allied Public Risk, LLC



# COVID-19 TIMELINE

- 12.31.2019 – World Health Organization (W.H.O.) advised of “viral pneumonia” in Wuhan, China
- 1.1.2020 – China reported its first known death
- 1.20.2020 – First US COVID diagnosis – Kirkland, WA
- 1.25.2020 – First CA COVID-19 diagnosis (Orange County) (0 deaths / 1 Case)
- 2.3.2020 – Santa Clara County declares health emergency (0 Deaths / 7 Cases)
- 2.25.2020 – San Francisco Mayor declares health emergency (2 Deaths / 11 Cases)
- 3.4.2020 – Governor Declares Emergency (3 Deaths / 5 Cases)
- 3.11.2020 – W.H.O. states COVID-19 a pandemic (4 Deaths / 202 Cases)
- 3.13.2020 – CA Schools Closed Statewide (5 Deaths / 320 Cases)
- 3.19.2020 – Statewide Shelter in Place Ordered (19 Deaths / 1,067 Cases)

# COVID-19 TIMELINE CONTINUED

- 3.22.2020 – White House declares CA coronavirus disaster (39 Deaths / 2,240 Cases)
- 3.26.2020 – The US officially hardest hit by the pandemic (1,000 US Deaths / 81,321 US Cases)
- 3.31.2020 – 10 million Americans are out of work. 6.6 million people applied for unemployment benefits in the last week of March (282 Deaths / 12,569 Cases)
- 4.15.2020 – Treaty reinsurers and insurance carriers begin requiring communicable disease exclusions (885 Deaths / 27,107 Cases)
- 6.18.2020 – Californians ordered to wear masks (5,202 Deaths / 159,131 Cases)
- 9.17.2020 – Newsom Signs Worker Protection Laws (14,615 Deaths / 762,963 Cases)
- 11.16.2020 – Newsom order all non-essential businesses to close (18,253 Deaths / 1,019,345 Cases)
- 12.31.2020 – (26,639 Deaths / 2,700,284 Cases)

# POLICY EXCLUSIONS

- Pollution
- Mold / Fungus
- Organic Pathogens
- Contamination and Disease Exclusion
- ISO Exclusions –
  - Property – Exclusion of Loss due to Virus or Bacteria – CP 01 40 07 06
  - General Liability – Communicable Disease Exclusion – CG 21 32 05 09
  - Commercial Umbrella – Communicable Disease Exclusion – CU 21 58 05 09

# EXPOSURES BY LINE OF BUSINESS

- Auto Liability
- General Liability
- Law Enforcement
- Employment Practices
- Public Officials
- Workers Compensation
- Employers Liability
- Cyber Liability
- Excess Liability

# 2021 INSURANCE ISSUES

- 2020
- Decades of soft market pricing
- \$25b decline in surplus in first six months
- Roll back of statute of limitations for sexual abuse claims
- Social inflation
- Increased use of expert witnesses
- Private equity-backed litigation
- Jury awards multiples of past years
- Covid uncertainty



# 2021 CALIFORNIA INSURANCE ISSUES

- Litigious environment
- Aggressive plaintiff's bar
- Excessive jury verdicts
- Legal environment
- Social inflation
- Covid uncertainty – non-workers compensation lines
- Covid uncertainty – workers compensation

# 2021 CALIFORNIA PUBLIC ENTITY INSURANCE ISSUES

- No tort cap
- Deep pocket
- Police excessive force
- Jails
- Presumption liability
- Telecommuting
- Staff reductions
- Budget shortfalls
- Aging infrastructure
- Covid-19

# 2021 FORECASTS – CALIFORNIA

- Fewer carriers writing public entity business
- Increased retentions
- Greater underwriting discipline
- Reduced capacity
- Increased coverage restrictions
- Communicable disease exclusions
- Claims made for some lines
- Hard market pricing

# 2021 RATE FORECASTS BY LINE OF BUSINESS

Line of Business	2021 Rate Changes
Auto (non – transit)	0% to +20%
Auto (transit)	+10% to +30%
General Liability	+10% to +25%
Law Enforcement	+40 to +60%
Employment Practices	+15% to +60%
Public Officials	+0% to +30%
Workers Compensation	Flat to +10%
Cyber Liability	20% to 35%
Follow Form Excess	+50% to +100%

# HOW TO APPROACH YOUR RENEWAL

- Start early
- Applications
- Detailed claim information
- Loss control / safety programs
- Risk transfer protocols
- Covid-19 prevention / mitigation / notice plans
- Payroll classifications
- Prepare for underwriting questions
- Evaluate your options

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# THE CURRENT STATE OF THE PROPERTY INSURANCE MARKETPLACE

Ryan Telford, Amwins Insurance Brokerage of California, LLC

- HOW DID THE MARKET GET TO WHERE IT DID?
- COVID-19 AND IT'S IMPACT ON PROPERTY INSURANCE
- ELEVATED CAT LOSSES (CLIMATE CHANGE CONCERNS)
- LOSS INFLATION / ADVERSE DEVELOPMENT
- GLOBAL RECESSION / FINANCIAL MARKET VOLATILITY
- WHERE ARE WE GOING FROM HERE?

# HOW DID THE MARKET GET TO WHERE IT DID?

- While there was some movement up and down, the macro view of the property market showed a reduction in rates and premiums over a 10-year period between 2008-2017.
- The Property Market never really found itself in a capital crunch, however most carriers could not continue to write property in North America at the pricing levels they were previously offering.
- Over the last 4 years (2017-2020), pricing has increased steadily while terms and conditions have become more restrictive.
- While rates and terms are helping carrier results, they are dented by COVID-19, Civil Unrest and an abundance of Catastrophe losses. These events have challenged carriers push to return to desired level of profitability.

# COVID-19 AND IT'S IMPACT ON PROPERTY INSURANCE

- While most property insurance policies either clearly excluded Communicable Disease or provided specific sublimits, many others did not include any clear definitions or exclusionary wording.
- The economic cost of COVID-19 will likely be in the Trillions. While ultimate cost to the insurance sector is still unknown, as of 1/1/21 the sector has earmarked \$30B as the current insured loss reserve.
- The current consensus is that COVID-19 will be a historic, but manageable loss for the insurance sector.



# ELEVATED CAT LOSSES (CLIMATE CHANGE CONCERNS)

- 2020 was another above-average year for CAT losses, including 22 separate events in excess of \$1B in losses.
- In aggregate since the start of 2017, the insurance sector has paid out nearly \$400B in catastrophe claims. This compares to just \$160B for the previous four-year period.
- 2020 was both the most active Atlantic Hurricane and Western Wildfire year on record, including:
  - 12 Named US Tropical Cyclones made land-fall in 2020
  - The 3 largest Wildfires in CO history and 5 of the 6 largest Wildfires in CA history

## NOAA - Weather and Climate Disasters

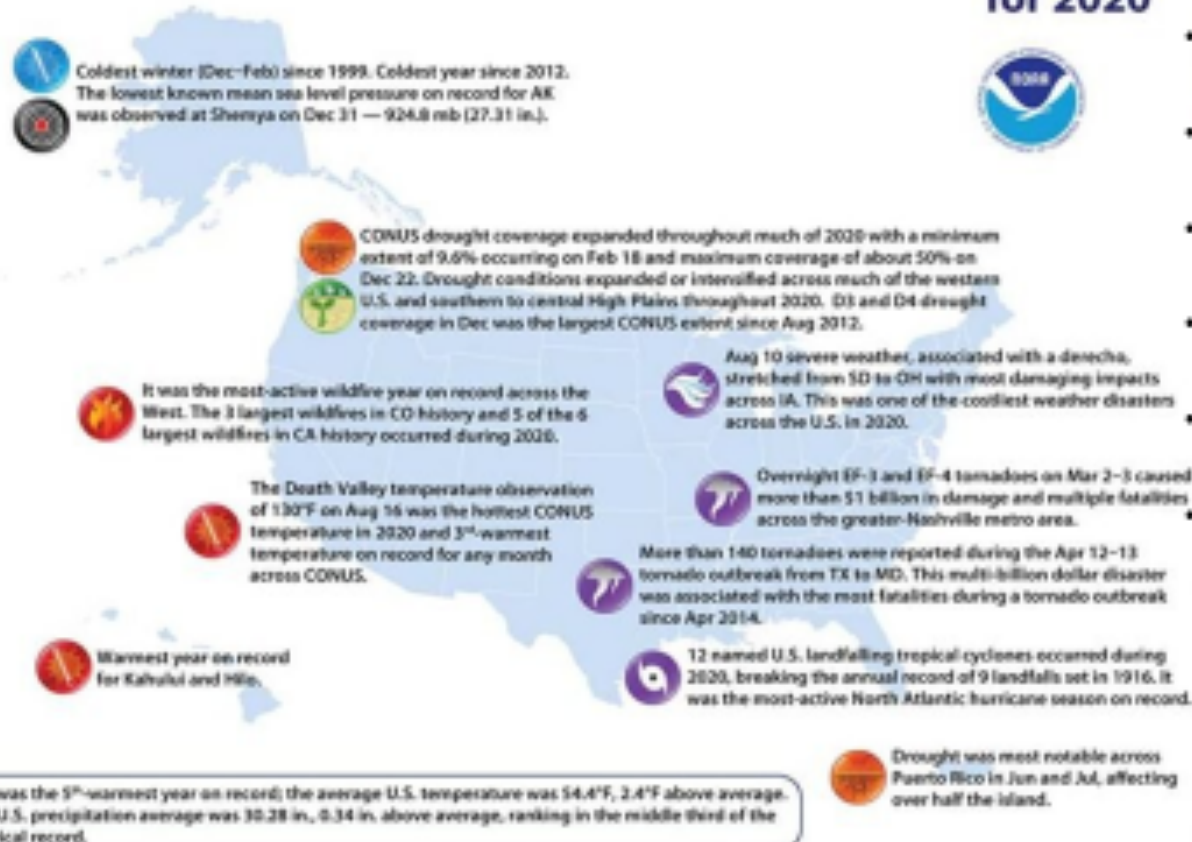
2020 Billion USD+ Weather and Climate Disasters



- 2020 was both the most active Atlantic hurricane and wildfire years on record.
- There were 22 weather/climate events in the United States reaching USD1B or more in damages.

## NOAA - Weather and Climate Disasters (continued)

### U.S. Selected Significant Climate Anomalies and Events for 2020



As reported by NOAA - Here is a list of billion-dollar weather events reaching or exceeding \$1B USD:

- 1 wildfire event (Western wildfires focused across California, Colorado, Oregon and Washington);
  - 1 drought and heatwave event (summer/fall across Western and Central U.S.);
  - 3 tornado outbreaks (including the Nashville tornado and Easter outbreak);
  - 7 tropical cyclones (Hanna, Isaias, Laura, Sally, Delta, Zeta and Eta); and
  - 10 severe weather events (including the Midwest derecho and Texas hail-storms)
- The total 2020 combined damages in the U.S. to \$95 billion. This is the highest on record since NOAA began tracking billion-dollar disasters in 1980.

# LOSS INFLATION / ADVERSE DEVELOPMENT

- As the Pandemic prolongs, Commercial Insurers are likely to witness elevated and varying levels of risk & losses as we enter uncharted territories.
- With elevated losses, travel restrictions and stay-at-home orders, claims adjustment processes have been delayed, not giving carriers a clear picture of their loss expectancy. Historically this has led to adverse loss development where carriers are increasing reserves from prior year losses.
- Both the pandemic and elevated loss activity have increased costs to repair or replace real property and/or estimate the cost to do so.

# GLOBAL RECESSION / FINANCIAL MARKET VOLATILITY

- COVID-19 created falling asset values, reduced investment returns and lower interest rates, resulting in muted balance sheets and a smaller profit pool. This is also creating consolidation in our sector, particularly among small and mid-sized insurers.
- Despite deteriorating economic conditions, the markets have rallied back since April, prompting uncertainty about the disconnect between asset prices and fiscal realities.
- Declining Investment returns make underwriting profitability an imperative.
- While there has historically been a strong relationship between GDP and insurance premiums, 2020 proved to be a year of disconnect as the US Economy shrunk by an estimated 4% (the deepest post-war annual decline) and insurance premiums were up an estimated 10.6%.

# WHERE ARE WE GOING FROM HERE?

- A successful Vaccine Rollout continues to be the key to bringing stability back to the insurance sector.
- Most Broker forecasts continue to show carriers will be seeking rate increases for property insurance renewals.
- New Capital is entering our market, however it has done so at a slower pace than post other events, including 9/11 and Hurricane Katrina, Rita and Wilma.
- We now sit at about \$20B of new capital entering the Market from March 2020 to year end. Additional fundraising is expected to continue in 2021.
- Despite the challenges of 2020, the rate levels and capital raises would provide some optimism that price increases would begin to slow or flatten.



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# PRACTICAL AND LITIGATION CONSIDERATIONS FOR THE INVESTIGATION AND RESOLUTION OF INSURANCE CLAIMS

Kevin D. Hansen, McCormick, Barstow, Sheppard, Wayte & Carruth



# FIELD INVESTIGATION

- Consideration must be given to the risk posed to the adjuster, investigator and others as well as the risk to the public at large.
- Insurers, claim adjusters, adjusting and investigation firms, risk consultants or managers and other allied parties have banned or severely restricted field adjustment and investigation.
- During the pandemic, many adjusters, claims handlers and investigators have become more reliant on so-called “desk investigation.”





# WITNESS INTERVIEWS

- Witness who might otherwise be fully cooperative are more likely to decline cooperation out of concern for exposure, violation of public health orders, childcare issues and a host of other limitations associated with the manner in which the coronavirus pandemic has upended society.
- Remote interviews and statements may be available via Zoom and other applications, but the issue then becomes one of the effectiveness of a remote interview or statement.



# ABILITY OR WILLINGNESS OF CLAIMANTS TO COOPERATE

- Employees and staff of members are likely to be working remotely or otherwise have limited availability because they are quarantining, recovering from illness, caring for family members, unavailable due to childcare commitments, etc.
- The net effect is delay, lack of cooperation, less effective investigation and an overall reduction in the expediency and effectiveness of handling a claim.
- The pandemic has a trickle-down effect. Claimants may assert an inability of others impacted by COVID-19 to cooperate with them as they seek to comply with an investigation.

# AVAILABILITY OF GOVERNMENTAL, LAW ENFORCEMENT, AND CONSULTANT RESOURCES

- Notwithstanding the essential nature of government services and law enforcement during the pandemic, such providers are likely to be understaffed or offering reduced services.
- Reduced overall staffing or unplanned absences due to exposure or positive tests may mean delayed responses to records requests, requests for assistance and other services.
- Again, the net effect is delay.



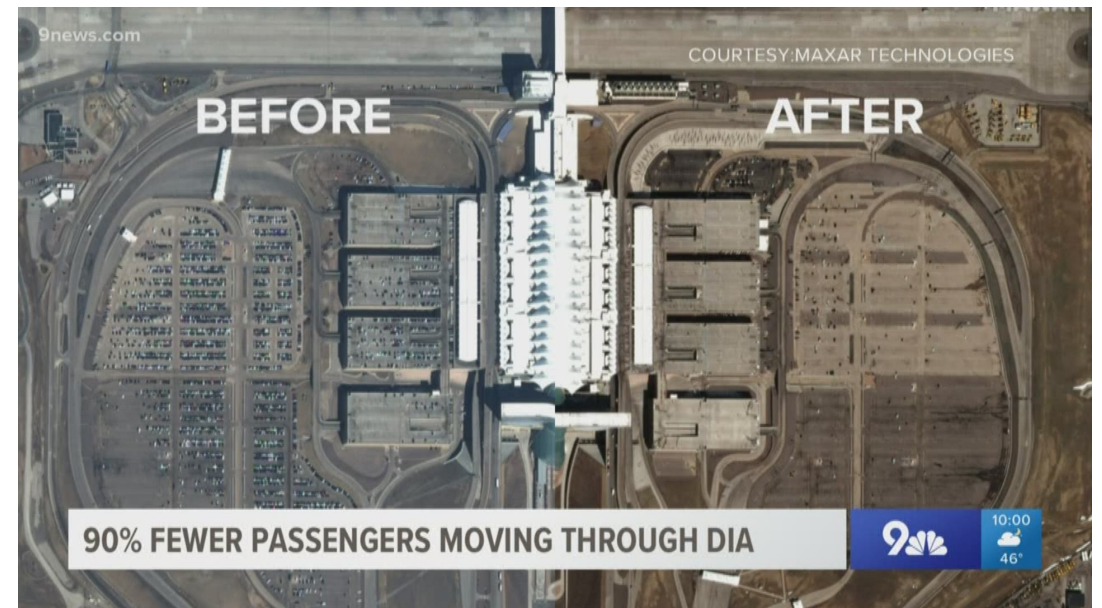
# GOVERNMENTAL REGULATIONS AND DIRECTIVES

- Regulators, such as Insurance Commissioners, have issued requests, recommendations and orders impacting the handling and resolution of claims during the coronavirus pandemic.
- These range from reminding insurers of the need to be vigilant and cooperative in working with claimants who may be adversely impacted by COVID-19 to outright orders prohibiting denials of coverage or liability until any state of emergency order associated with the coronavirus pandemic has been lifted.



# ACCESS AND TRAVEL

- Many states and jurisdictions have limited travel, access to services and imposed quarantine requirements.
- Limitations and rules can vary widely from city to city, county to county and state to state.
- These must be taken into account in considering the most appropriate manner in which to handle a claim.
- Even if your travel is not impacted, someone with whom you are working may be impacted.



# CLAIM RESOLUTION

- Financial pressures and court delays may result in settlement opportunities that can save business relationships or money.
- Remote mediations and other remote dispute resolution proceedings appear to be more accepted now and, most likely, will become more common in the future.

# LITIGATION CONSIDERATIONS BASED ON COVID-19

- Litigators have historically resisted anything other than in-person, face-to-face depositions, mediations, arbitrations and trials.
- Lawyers may find it difficult to communicate both because of technological issues and because of not being in the same location with the non-verbal cues that human-to-human contact allows.
- Assessing credibility of a witness over a computer or phone is generally regarded as less than ideal.
- Lingering concerns remain about the difficulty of managing document-intensive cases, avoiding inadvertent disclosure and whether jurors are paying attention or engaging in texting, emailing, net surfing, etc.
- Virtual trials have taken place and continue to occur in increasing numbers. Lawyers who have participated in such trials have, for the most part, deemed the process acceptable.

# LITIGATION CONSIDERATIONS BASED ON COVID-19

- In the federal court system, overall case filings (excluding product liability cases) for the first 10 months of 2020 were down 10% from 2019. Looking at only March through October, case filings were down 12% in 2020 compared to 2019. Case filings were 26% lower in May 2020 than May 2019.
- Copyright, bankruptcy, and torts saw the biggest decrease in case filings in 2020 compared to 2019. This finding confounds the prediction early during the pandemic that bankruptcy filings would increase dramatically.
- Many observers expect more pandemic-related bankruptcy and torts cases to make their way into the federal courts in the coming years.
- Trials plummeted in federal court in 2020 as there were only 477 cases with findings at trial compared to 980 cases with findings at trial in 2019 (a 51% drop).
- Federal District Courts are using a variety of measures to minimize delay in caseload disposition. The vast majority of the 94 U.S. District Courts have elected to restrict public access to courthouse facilities, halt jury trials, and/or encourage or require the use of teleconferences for hearings for certain proceedings.
- Many such orders mention exemption from the Speedy Trial Act which mandates that criminal trials begin at a certain time and cannot be delayed.