



**RISK MANAGEMENT DEPARTMENT**  
**Claims Management Services Section**

**PROPERTY, CRIME AND LIABILITY UNIT**  
**PROCEDURES MANUAL**

**Supporting the MISSION ▫ Looking to the FUTURE ▫ Focusing on RESULTS**

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## **I. INTRODUCTION**

### **MISSION OF THE DISTRICT**

To create an environment where students, parents, employees, and the community foster achievement.

### **BOARD OF SCHOOL TRUSTEES VISION**

All students will graduate from high school having the knowledge, skills, attitudes, and values necessary to achieve academically, prosper economically, and participate in democracy.

### **CCSD QUALITY POLICY**

The Clark County School District Office of the Superintendent is committed to quality performance by providing services and products to all district entities through a continual improvement process in support of the District's strategic plan.

### **MISSION OF THE RISK MANAGEMENT DEPARTMENT**

The mission of the Risk Management Department is to effectively protect the District's human, financial, and physical assets and resources from the consequences of losses.

### **MOTTO**

Shielding CCSD's Assets from Risk of Losses

### **VISION OF THE CLAIMS MANAGEMENT SERVICES SECTION**

Claims Management Services Section's vision is to be the leader in claims service quality. We will win our customers' satisfaction and trust through continual improvement driven by teamwork, professionalism, and integrity of Claims Management Services Section staff.

### **STATEMENT OF VALUES**

To guide our daily actions and decisions, we have established a values statement with clear claims adjusting standards.

- We treat all claimants with COURTESY and RESPECT.
- We ensure a prompt, thorough investigation of each claim to determine the School District's responsibility on the basis of applicable laws and regulations, pertinent insurance policy coverages and limits, and factual information.
- We reserve each claim to its ultimate expected cost based on available factual information without consideration to third-party recovery possibilities. We do not resort to "stair-step" reserving.
- We pay fair and appropriate benefits timely.
- We maintain constant communication with all the appropriate parties throughout the life of a claim.
- We aggressively pursue all possibilities of recovery from third-party individuals and companies.
- We endeavor to reduce the severity, or likely size, of a claim from a particular loss exposure by utilizing claim administration best practices and techniques.
- We mediate, arbitrate, settle, or litigate contested claims if it is in the best interest of the District.

## II. GENERAL STATEMENTS

- A. The Claims Manager of the Property, Crime and Liability Unit, aided by the Coordinator of Claims Management Services Section, will be responsible for overseeing the processes contained in this manual.
- B. The terms *staff member*, *claims staff*, *claims examiner*, *claims handler*, *claims representative*, and *claims adjuster* are used interchangeably, much as the terms *lawyer* and *attorney* are used interchangeably.
- C. Process input needed to fulfill the requirements of the customer and the expected output of a process may not be always specifically labeled as such. In these cases, closely reading the detailed description of the process should help anyone identify these two elements.
- D. Records will be stored in hard copy format in secured cabinets at the office of the Claims Management Services Section and/or electronically on secured servers. Closed or inactive files may be stored offsite in a contracted records storage facility.
- E. Records will be retained permanently.
- F. A list of definitions is provided below.
  - 1. ACV: Actual Cash Value
  - 2. AL: Automobile Liability
  - 3. APD: Auto Property Damage
  - 4. ASU: Ancillary Services Unit
  - 5. CCSD: Clark County School District
  - 6. CMSS: Claims Management Services Section
  - 7. CSU: Centralized Support Unit
  - 8. DJJS: Department of Juvenile Justice Services
  - 9. EP: Employment Practices Liability
  - 10. FIU: Field Investigation Unit
  - 11. GL: General Liability
  - 12. NAC: Nevada Administrative Code
  - 13. NRS: Nevada Revised Statute
  - 14. PCLU: Property, Crime and Liability Unit
  - 15. PD: Property Damage
  - 16. PDF: Portable Document Format
  - 17. POA: Plan of Action
  - 18. RMD: Risk Management Department
  - 19. RMIS: Risk Management Information System
  - 20. SAID: Claim disposition worksheet used to document Claims Examiner's Summary, Assessment, Investigation, and Damages verification
  - 21. SIR: Self Insured Retention
  - 22. WCU: Workers Compensation Unit
- G. This manual may not be modified in any shape or form without the express approval of the Director of Risk Management Department.
- H. Document Revision History

Date	Rev.	Description of Revision
01-April-2011	A	Initial release of the document

### III. CCSD STANDARDS AND STYLE MANUAL

**Purpose:** To ensure that CMSS staff members adhere to CCSD-prescribed standards for business communications

The CCSD *Standards and Style Manual*, first published by CCSD Community and Government Relations in August 2010, states:

*“Why Have Standards?”*

*Clark County School District educators know standards are key to achieving credibility in many areas of instruction. The same is true in the use of standards for business communications. Whether an employee is sending a thank-you letter, newsletter, e-mail, or other essential information, the manner in which information is communicated reflects on our District. In the Clark County School District, having the periods and commas in the right place, using proper spelling and word choice, and having a consistent format for letters and memos, demonstrates to parents, students, and the community that Clark County School District employees are committed to excellence.”*

**Standard:** Any written communication addressed to a person or organization that is not part of CMSS must be written in such a way that is consistent with CCSD-prescribed standards for business communications.

Likewise, any internal written communication that could potentially be released to an external person or organization must be written in such a way that is consistent with CCSD-prescribed standards for business communications.

**Procedure:**

1. PCLU Claims Manager in collaboration with CMSS Administrative Clerk shall proofread draft written communication and make changes if necessary.
2. The CCSD *Standards and Style Manual* is a condensed reference tool. For in-depth information on suitable formatting and grammar usage, the *Gregg Reference Manual* may be consulted.

## IV. CLEAN DESK POLICY

**Purpose:** An effective clean desk effort involving the participation and support of all CMSS staff members can:

- Create the right image when customers and guests visit the CMSS area.
- Protect sensitive documents from unauthorized viewing.
- Reduce the threat of confidential information being compromised.
- Promote less taxing work day as scientific studies have shown there is reduction in stress when employees have tidy desks.
- Increase productivity as scientific studies have shown that employees with a messy desk waste 15 percent of their time looking for things.
- Help others find necessary documents if an employee is absent or away from the office.

**Standard:** All CMSS staff members are subject to this policy.

- Procedure:**
1. At the conclusion of the work day, staff members *must* straighten their desks and put away *all* claims-related files and documents.
    - a) Staff members must designate an overhead bin or a file drawer within their work station for the above-stated purpose.
    - b) The designated bin or file drawer shall be labeled as "PENDING."
    - c) Locking up the designated bin or file drawer will not be required until such time as individual work stations have been rekeyed properly.
  2. Use the on-site shredding service receptacle for sensitive documents that are no longer needed.
  3. Reduce the amount of hard copy documents used in the administration of claims by scanning.
  4. Go through the things on your desk to make sure you need them; what you don't need, throw away using appropriate manner of disposal.
  5. Do your utmost to handle any piece of hard copy only once; act on it, file it, scan it, or discard it.
  6. Only print out e-mails if absolutely necessary. If you need to save an e-mail for future reference, save it electronically.
  7. Only print out incoming fax if absolutely necessary. Incoming faxes arrive already in PDF format. They can be easily attached to claims.

## V. MAIL HANDLING

**Purpose:** Insurance claims adjudication is driven by paperwork. Whether the task output be the acceptance or denial of a claim for benefits, the task is prompted by CMSS receiving a claim application, letter of legal representation, medical reporting, etc. Consequently, it is imperative that all incoming mail including faxes be reviewed by staff members timely.

**Standard:** Staff members must check their respective cubby holes for any new mail daily.

Staff members must check their respective *Incoming Faxes Folder* for new faxes, at the minimum, every hour on the hour daily.

In support of RMD's long-term goal to adopt a "true" paperless claims administration system, staff members are to scan hard documents whenever possible, attach scanned documents to the appropriate RMIS claim file, and dispose of the hard documents using the on-site shredding service receptacle.

Staff members scanning hard documents must retrieve the corresponding scanned documents from the common scanner drive on the same day the hard documents were scanned.

- Procedure:**
1. Except otherwise noted elsewhere in the body of this manual, staff member must respond to all mail requiring action within three business of receipt.
  2. RMIS must evidence justification of any exception to the foregoing turnaround time.
  3. Original hard documents are not to be altered in any shape or form. Staff members are not to write marginal notes, underline, highlight with a marker, cross out, and so on.
  4. Writing the claim number in pencil, on the upper right hand corner of the original hard document, is allowed.
  5. Staff member must ensure that all new mail has a date stamp.
  6. Attempts will be made to identify any unidentified mail using RMIS inquiry screens. Conferring with immediate supervisor and/or coworkers may also prove to be useful in identifying unidentified mail.
  7. Mail that cannot be identified must be sent back to the originator for identification within one business day of receipt.

## VI. TELEPHONE SYSTEM PROTOCOL

**Purpose:** To ensure that all telephone calls to CMSS are picked up promptly and handled in a professional manner.

**Standard:** Every attempt must be made to stop an incoming call from rolling over to voice mail.

Staff members must pick up calls after the first ring.

CMSS staff members will be CSU's backup in answering the accident hotline. CMSS staff members must pick up the accident hotline if not picked up by the third ring.

Voice mail passcode must be the staff member's own 4-digit extension.

**Procedure:** Staff members are encouraged to educate their regular customers to use staff's direct extensions when calling CMSS.

1. Standard greeting is as follows:  
"Claims Management Services, this is \_\_\_\_\_. How may I help you?"
2. Standard voice mail greeting is as follows:  
"This is \_\_\_\_\_ in Claims Management Services, at extension \_\_\_\_\_. Please leave a detailed voice mail message and I will return your call by the end of the following business day."
3. Staff members who will be away from their desks for 30 minutes or longer, e.g., out for lunch, must activate a temporary away message.

Standard temporary away message is as follows:

"This is \_\_\_\_\_ in Claims Management Services. I am in the office today but unavailable to take your call at this time. Please leave a detailed voice mail message and I will return your call as soon as I get back in the office."

4. Staff members who are scheduled to be out for a period of two business days or longer must activate an extended away message.

Standard extended away message is as follows:

"This is \_\_\_\_\_ in Claims Management Services. I will be out of the office until \_\_\_\_\_. If you need immediate assistance, please dial \_\_\_\_\_."

5. In the event a staff member calls in due to an illness or personal emergency, it will be the responsibility of that employee's immediate



supervisor to forward the employee's telephone to an appropriate backup extension number.

6. Staff members must ensure that their voicemail messages are always current, reflect availability and offer an alternate contact number when appropriate.
7. Answer and talk on the telephone with a smile. You will sound more friendly.

## VII. INCIDENT CALL-INS

**Purpose:** CMSS staff members are to back up CSU in answering the accident hotline. Once a CMSS staff member picks up the accident hotline, he or she effectively takes on the role of dispatch responding to a telephone call about a new incident that could potentially escalate into a claim against the district. It is important to make every attempt to obtain as much information as possible from the caller. Under no circumstances shall staff members admit liability for nor offer to settle any claim at this point in time.

**Standard:** Respond to telephone call promptly and speak to the caller in a professional manner. Complete an appropriate incident call-in sheet on the same day the call was received.

**Procedure:**

1. Choose from the fillable forms below to document information received from the caller. These forms are accessible from the common drive.
  - a) Notice of Accident – Personal Injury/Property Damage
  - b) Notice of Motor Vehicle Accident
  - c) Notification of Safety Concern
2. Print the completed form in PDF format and place it in the CSU *Claim Call In Reports Folder*. Alternatively, it can be e-mailed to CSU Claims Manager.
3. If warranted, arrange for the dispatching of FIU Supervisor to the scene. Refer to written field investigator response protocol.
4. Confer, if needed, with senior claims staff and/or unit managers to further determine immediate plan of action.

## VIII. UNDERSTANDING DISTRICT REGULATIONS

**Purpose:** To achieve an informed decision, any district regulations in effect that might potentially affect the resolution of a claim are to be reviewed and applied, as appropriate and to the extent that they do not conflict with statutes, before a claim is finally adjudicated.

**Standard:** Staff members must be familiar with District Regulations that may impact claim resolution. Newly hired employees shall have 30 calendar days from date of hire to familiarize themselves with these regulations, which can be accessed online at [www.ccsd.net](http://www.ccsd.net).

**Procedure:** The regulations that must be read and understood by staff members include the following, but are not limited to:

1. Regulation 1223 – Fund Raising
2. Regulation 3210 – District Funds and Fund Control
3. Regulation 3212 – Monies Collected from Outside Sources
4. Regulation 3231 – Management of Student Activity and Staff Funds
5. Regulation 3431 – Insurance Coverage
6. Regulation 3432 – District Claim Resolution
7. Regulation 3532 – Accident Involving District Transportation Vehicles
8. Regulation 3533 – Safety of Students: Transportation Vehicles
9. Regulation 3536 – Employee Transportation
10. Regulation 3537 – District-Owned Vehicles
11. Regulation 3610 – Property Inventory
12. Regulation 3612 – Responsibility for District Property
13. Regulation 3613 – Use of District Buildings, Grounds, and Equipment by Non-school Groups
14. Regulation 4231 – Alcohol and Controlled Substances (Drug) Testing
15. Regulation 5135.13 – Trips for Extracurricular Activities
16. Regulation 5141 – Student Discipline
17. Regulation 5142 – Student Disruptions
18. Regulation 5144 – Searching Students or Student Lockers
19. Regulation 5150 – Health and Welfare: Students
20. Regulation 5154 – Student Insurance
21. Regulation 5156 – Automated External Defibrillator (“AED”)
22. Regulation 6142 – Field Trips

## IX. STATUTE OF LIMITATIONS

**Purpose:** A statute of limitations is a law which places a time limit on pursuing a legal remedy in relation to wrongful conduct. Unless a legal exception applies, the aggrieved or injured party loses the right to file a lawsuit seeking damages or other relief after the expiration of the statutory period.

A statute of limitations is said to start running at the time a claim accrues. Generally, that is the time at which a loss or injury is suffered.

When it is said that a statute of limitations is “tolled”, it means that something has stopped the statute of limitations from running for a period of time. Reasons for tolling a statute of limitations include the following, but are not limited to:

- Late discovery of the cause of loss or injury
- Mental incompetence (the aggrieved or injured party was not mentally fit at the time the loss or injury occurred)
- Minority (the aggrieved or injured party was a minor at the time the loss or injury occurred)
- Defendant’s bankruptcy (the “automatic stay” in bankruptcy proceedings generally tolls the statute of limitations until such time as the bankruptcy is resolved or the stay is lifted)

Under Nevada law, the statute of limitations begins to run on a minor’s eighteenth birthday.

**Standard:** Staff members must be familiar with statutory limitations periods in Nevada that may impact claim resolution. Civil actions can only be commenced within the periods prescribed in Chapter 11 of the NRS. Newly hired employees shall have 30 calendar days from date of hire to familiarize themselves with these statutory limitations.

**Procedure:** The following is a list of statutory limitations periods for specific civil actions in Nevada. It is NOT an all-inclusive list.

1. Contracts: Written, 6 years; Oral, 4 years
2. Product Liability: 4 years
3. Legal Malpractice: 4 years
4. Medical Malpractice: 3 years from the date of the act or omission, or 1 year from the date the injury was or should have been discovered, whichever is earlier.
5. Fraud: 3 years

6. Personal Property: 3 years
7. Libel/Slander/Defamation: 2 years
8. Assault/Battery/False Imprisonment: 2 years
9. Personal Injury: 2 years

## X. CLAIM-HANDLING PROCESS

**Purpose:** To properly determine whether or not a claim is covered and the amount that should be paid to the claimant for a covered claim, staff members must conduct a thorough investigation into the cause of loss and damages.

**Standard:** Staff members must have a full understanding of the intricacies of handling claims.

*Senior* staff members by virtue of experience and job title are expected to mentor junior staff members.

Staff members should be careful not to mislead the claimant about the potential coverage for the claim or the amount of the claim payment.

**Procedure:** Different types of claims necessitate varied handling approaches. However, despite these differences, the same basic claim-handling activities can be carried out by staff members to handle any type of claim. The activities do not always happen in sequence and can overlap.

1. CSU staff member enters new claims into STARS and assigns them directly to individual PCLU claims handlers using the following criteria.

**Assign to Claims Manager:**

- First Notice – Summons and Complaints
- Civil Rights Violation Complaints
- Employment Practices (EP) Claims
- Crime Policy Claims
- Catastrophic Claims

**Assign to Field Investigation Supervisor:**

- Automobile Liability (AL) Claims and Companion Automobile Property Damage (APD) Claims – White Fleet, including School Police Vehicles
- First-Party Property (PD) Claims – School Sites

**Assign to Claims Examiner A: EVEN-NUMBERED DATE OF LOSS**

- First-Party Property (PD) Claims – Nonschool Sites
- General Liability (GL) Claims
- Automobile Liability (AL) Claims and Companion Automobile Property Damage (APD) Claims – School Bus/Yellow Fleet
- Employee Personal Property Claims – Declared or not

**Assign to Claims Examiner B: ODD-NUMBERED DATE OF LOSS**

- First-Party Property (PD) Claims – Nonschool Sites
- General Liability (GL) Claims

- Automobile Liability (AL) Claims and Companion Automobile Property Damage (APD) Claims – School Bus/Yellow Fleet
- Employee Personal Property Claims – Declared or not

**Assign to Claims Technician A:**

- Property (PD) Claims – Department of Juvenile Justice Services (DJJS)
- Automobile Property Damage (APD) Claims – Strictly APD only; NO companion AL claim

2. Claims Examiner acknowledges receipt of the claim by contacting the claimant.
3. Claims Examiner identifies policy coverages that were in force on the date of loss. Some of the questions that Claims Examiner should consider:
  - a) What is covered or insured by the policy?
  - b) What caused the loss?
  - c) Is the cause of loss covered by the policy?
  - d) Do any limitations, exclusions, or endorsements apply to the loss?
  - e) How is the loss valued?
  - f) What are the limits and deductibles of the policy?
4. Claims Examiner investigates and documents the claim file.
5. Claims Examiner determines the cause of loss and loss amount.
6. Claims Examiner concludes the claim. The following activities could occur in concluding the claim:
  - a) Payment in exchange for a release
  - b) Claim denial
  - c) Alternative dispute resolution to include mediation and arbitration
  - d) Litigation

## XI. RESERVES

**Purpose:** The goal is to reserve each claim to its ultimate expected cost based on known and verifiable facts. The assessment of claims on a case-by-case basis is a key activity in the process.

It is the claims staff's duty to provide the District with the best estimate of its liability. Claims staff should not make inferences beyond the documentation included in the claim file. "Stair-stepping," or incremental increases to cover short term expenses, is not allowed. Each claim is to be reserved without consideration to self-insured retention, policy limits and sub-limits, deductible, and third-party recovery possibilities.

Claim reserving is by no means an exact science. Nonetheless, it cannot be left to "best guesstimate." Use of judgment and experience by claims staff entrusted with the responsibility of adjusting claims is an underpinning element of this process.

Reserves should be neither deliberately overstated nor deliberately understated. Assuming improbable "worst case scenarios" must be avoided. On the other hand, being overly optimistic about the outcome of claims is also unwarranted.

Reserve is the amount expected to be paid out during the life of the claim. Expected recovery is not a reserve.

The claim valuation or reserve worksheet is only a guideline. It is NOT an absolute method to value a claim or estimate a claim's ultimate cost.

Note: This section on reserves primarily targets bodily injury liability claims as it is typically more challenging to put a "price tag" on these type of claims. Unlike property and crime claims whose ultimate costs, for the most part, are derived from specific quantifiable expenditures,

**Standard:** Initial reserves must be entered into RMIS by the 20th calendar day from receipt of the claim. The reserves should be stabilized within 90 calendar days of receipt of the claim. Subsequent reserve reviews using more mature claim data are to be completed at appropriate intervals.

Reserve increases or decreases are subject to authority level/financial escalation approval process established in RMIS.



**Procedure:** For third-party liability claims, loss distribution as reflected in historical actuarial study is shown below.

<b>Layer Based on Total Incurred</b>	<b>Percent of Total Claims Volume</b>
(A) \$0 to \$5,000	73%
(B) \$5,001 to \$10,000	8%
(C) \$10,001 to \$50,000	16%
(D) Over \$50,000	3%

The length of suffering and the type of injury sustained by the claimant are variables that need to be accounted for when completing a claim valuation. Minor injuries mean lower claim valuation amounts when compared to internal injuries, amputated limb, spinal cord, brain damaging disabilities, etc. Injuries that resolve themselves within a few weeks of the accident will receive lower valuation when compared to injuries that take months or even years to recover from.

Typically, younger people's claims are valued higher if their accident-related injuries result in a permanent impairment. This is because a permanent impairment will obviously affect them for the rest of their lives.

Subjective complaints not supported by credible, objective evidence should not be given weight. Similarly, past economic loss or loss of earnings due to being disabled from work should not be considered unless validated by the employer and supported by objective medical evidence.

For the purposes of claim reserving, a claim that is likely to fall in Layer A can be fast tracked if it meets all the following criteria:

- Clear liability
  - Soft tissue injury
  - Good prognosis, no residuals expected
  - No aggravation of preexisting condition
  - Treatment within 30 days of loss, incurred or expected
1. For a qualified Fast Track claim, complete a Fast Track Claim Valuation Worksheet or a similar worksheet approved for use to set up reserves.
  2. Figures entered into the RMIS financial screen must be consistent with the figures reflected on the valuation worksheet.
  3. Update the Fast Track box in RMIS accordingly. Choose either "Y" for Yes or "N" for No.

For all other claims falling in Layers A – D, including those that have been initially flagged as a Fast Track claim but did not come into fruition, a

comprehensive Claim Valuation/Reserve Worksheet or a similar worksheet approved for use to set up reserves, must be completed.

1. In setting up reserves for these types of claim, factors that need to be considered may include the following, but are not limited to:
  - a. Claimant's age
  - b. Claimant's occupation
  - c. General damages
  - d. Extent of injuries
  - e. Temporary or permanent physical limitations
  - f. Past economic loss
  - g. Past medical expenses
  - h. Past out of pocket expenses
  - i. Future economic loss or impact on future earning capacity
  - j. Future medical expenses
  - k. Future out of pocket expenses
  - l. Prognosis for further problems
  - m. Claimant's credibility and strength as a witness
  - n. Strength of lay witness testimony
2. Other expenses that may need to be considered include the following allocated expense category payments, but are not limited to:
  - a. Medico-legal expense
  - b. Expert witness fee
  - c. Accident reconstruction fee
  - d. Independent adjuster fee
4. Figures entered into the RMIS financial screen must be consistent with the figures reflected on the valuation worksheet.
5. Reserves must be adjusted to account for contributory negligence, but only if there is adequate claim file information to justify not accepting 100 percent responsibility for the loss.
6. Conversely, reserves must be set up in such a way to reflect any applicable statutory cap.
7. In general, Nevada tort cap only applies to tort claims heard in State Court. Claims heard in Federal Court do not have a limit.

## XII. FIRST-PARTY PROPERTY CLAIMS

**Purpose:** Property owners such as the District experience many types of damages attributable to perils like fire, explosion, vandalism, theft, smoke, freezing, accidental discharge or overflow of water, etc. To protect itself from the financial loss associated with these perils, the District has purchased property insurance containing first-party coverages to pay (1) direct losses, including the costs to repair or replace buildings and tangible or intangible property identified in the policy, and (2) indirect losses, including additional expenses that the District incurs because its property was damaged.

Generally, the District in its role as the assured has a duty to (1) protect the property from further loss or damage, (2) separate the damaged and undamaged property, (3) furnish a complete inventory of the lost, destroyed, damaged and undamaged property showing in detail the quantities, costs, actual cash value, and amount of loss claimed, and (4) submit proof of loss.

The property insurance policy excludes currency, money, precious metal in bullion form, notes, or securities. For example, theft or embezzlement of District monies will not be covered under the property insurance policy. Remedies for this specific type of loss of or damages to “money” is usually addressed in a government crime insurance policy.

Coverage does not apply to mysterious disappearance, loss or shortage disclosed on taking inventory, or any unexplained loss.

**Standard:** As a general rule, first-party claims within the deductible or retention of the primary policy shall be adjusted by staff members as if the primary policy carrier were adjusting them.

Within 30 calendar days of receipt of the claim, staff member must render a written determination whether to accept or deny the claim.

Initial reserves must be entered into RMIS by the 20th calendar day from receipt of the claim. The reserves should be stabilized within 90 calendar days of receipt of the claim. Subsequent reserve reviews using more mature claim data are to be completed at appropriate intervals.

**Procedure:**

1. Claims Examiner receives new claim.
2. Claims Examiner acknowledges receipt of the claim by contacting the claimant within two business days upon receiving the loss notice.

3. At the minimum, Claims Examiner should explain during the initial contact with the claimant how the claim will be handled by doing the following, but are not limited to:
  - a) Informing the claimant what is required to mitigate or reduce damages – the claimant has a duty to protect the property from further damage
  - b) Informing the claimant what supporting documentation may be needed to perfect the claim
  - c) Explaining the investigation, inspection, and/or appraisal that Claims Examiner will be performing
  - d) Explaining potential coverage issues or policy exclusions/limitations
  - e) Describing the property replacement process administered through the CCSD Purchasing Department
  - f) Estimating the time needed to adjust and conclude the claim
4. Claims Examiner does not usually take a recorded report. The damaged property provides enough evidence of the loss. However, taking a recorded report must be included in the initial plan of action if claim severity is likely to be categorized as *medium* to *high* and there is subrogation potential.
5. Claims Examiner investigates the claim and documents the claim file. A property loss investigation to be useful must confirm the extent of damage to the property, the cause of the damage, and the extent of any indirect losses resulting from the covered property damage.
6. While investigating the claim, Claims Examiner determines whether or not there are subrogation possibilities. A copy of police report, if any, must be obtained and thoroughly reviewed as part of the fact-finding process.
7. If directed by PCLU Claims Manager or designee, Claims Examiner in collaboration with FIU Supervisor goes to visit the claimant and conducts an on-site inspection for the purpose of creating a scope of the loss. A *scope* is a list of:
  - a) Areas damaged in a loss
  - b) Contents damaged in a loss
  - c) Type of damage
  - d) Description of proposed type of remediation, including the quantity and price for materials, equipment, and labor needed to complete the remediation
  - e) Description of proposed type of repairs, including the quantity and price for materials and labor needed to complete the repairs
  - f) Measurements of the area

8. Claims Examiner uses the scope to create the estimate of damage for claim reserving purposes.
9. Depending on the type of loss, Claims Examiner may require the use of experts such as fire marshals, origin and cause experts, restoration specialists, appraisers, and salvors. Prior approval by PCLU Claims Manager or designee is required for this type of external assignment.
10. Typically, Claims Examiner determines the value of damaged property that is covered by using the lesser of the:
  - a) ACV of the property at the time of loss, or
  - b) Cost to repair or replace with material of like size, kind, and quality.
11. Claims Examiner concludes the claim by deciding whether to pay the claim or deny it.

### **XIII. FIRST-PARTY CRIME INSURANCE CLAIMS**

**Purpose:** The District is a potential target for white collar crime. Hence, a crime policy is an absolute necessity for District officers and stakeholders concerned with protecting District's assets.

Typically, a comprehensive crime policy provides coverage for the following:

- Employee Theft: Losses of money or securities caused by theft or forgery by an employee
- Faithful Performance of Duty: Protection against losses of money or securities when an employee fails to faithfully perform his or her duties
- Premises/Inside: Losses sustained due to theft of money or securities within or from the District's premises by a third party
- Transit/Outside: Losses sustained due to theft of money or securities outside the District's premises by a third party, while being conveyed by the District or any authorized person
- Depositors Forgery: Losses resulting from financial instruments fraudulently drawn upon the District's account by a third party
- Computer Theft and Funds Transfer Fraud: Losses resulting from the intentional taking of money or securities through the use of a computer or fraudulent instructions to a financial institution to transfer, pay or deliver money or securities

To determine whether or not first-party coverage applies to a loss, staff members must be familiar with District's crime policy. It may contain a dollar limit deductible. It may also contain timeliness standard as to the required written notice of loss upon knowledge or discovery of loss or of an occurrence which may give rise to a claim for a loss. Additionally, staff members must be familiar with District Regulations that pertain to fund raising, management of funds, and fund control.

It is not uncommon to receive first notice of loss for this specific line of coverage by way of a report of findings generated by CCSD Internal Audit Department. Another potential source of first notice is news media.

**Standard:** As a general rule, first-party claims within the deductible or retention of the primary policy shall be adjusted by staff members as if the primary policy carrier were adjusting them.

Within 30 calendar days of receipt of the claim, staff member must render a written determination whether to deny or accept the claim.

Initial reserves must be entered into RMIS by the 20th calendar day from receipt of the claim. The reserves should be stabilized within 90 calendar days of receipt of the claim. Subsequent reserve reviews using more mature claim data are to be completed at appropriate intervals.

**Procedure:** The step-by-step claim handling processes discussed in previous sections, for the most part, will also be applicable to handling first-party crime insurance claims. Claims Examiners, however, must include the following specific tasks in their initial claim evaluation and plan of action.

- Contact the Internal Audit Department if additional information is required.
- Contact the Employee Management Relations Department to find out if there is any ongoing investigation and/or disciplinary action proceeding in connection with the claim.
- Contact the Office of General Counsel if legal intervention is required.
- Contact the Affirmative Claims Unit to coordinate recovery efforts, if appropriate.

## XIV. THIRD-PARTY LIABILITY CLAIMS

**Purpose:** Any decision made for the acceptance or denial of a claim must be supported by adequate information obtained from investigation. The information must be sufficient to provide basis for developing a plan of action to bring the file to a prompt and equitable disposition. The file must demonstrate that the claims examiner made every reasonable effort to arrive at the facts of the case and that the final decision was clearly made in good faith.

This section outlines the general activities which apply to initial review of new liability claims.

### Automobile Liability Claims

A District-owned vehicle is involved with another vehicle which is not owned by the district. The insured driver may or may not be at fault for the accident. A third-party claim for special and/or general damages may be filed against the District.

### General Liability Claims

The elements for a cause of action against the district based on negligence are embodied in the definition of negligence. *Legal Liability and Risk Management for Public and Private Entities* (Van der Smissen, 1990) defines "negligence" as an unintentional breach of a legal duty causing damage reasonably foreseeable without which breach the damage would not have occurred. The four elements of negligence are:

1. **A Duty**  
A duty or obligation recognized by the law requiring a person to conform to a certain standard of conduct for the protection of others against unreasonable risks.
2. **The Act**  
A failure on the part of such person to conform to the standard required.
3. **Proximate Cause**  
A reasonably close causal connection between the conduct (failure to conform to appropriate standard) and the resulting injury.
4. **Damages**  
Actual loss or damage to the interests of another.

To establish that a defendant is negligent, and thus the injured plaintiff can recover, all four elements must be proven. To establish that a defendant is



NOT negligent, it need be shown only that one of the elements was not met.

**Standard:** Two-point contact (insured and third-party claimant) must be completed on the same day if assignment is received prior to 3:00 p.m. If assignment is received after 3:00 p.m., two-point contact must be completed by 10:00 a.m. next business day. Additional contacts must be made with witnesses as appropriate. Reason for any variances from the standard must be documented in RMIS.

Within 30 calendar days of receipt of the claim, staff member must render a written determination whether to accept or deny the claim.

**Procedure:** It is the responsibility of the claims examiner to perform the following *mandatory* minimum initial investigation requirements.

1. Secure a recorded report of the third-party claimant and of the insured.
  - a. A well taken recorded report serves as a refresher to the person who gave it should he/she be called upon to repeat the story from the witness stand.
  - b. It makes the story fixed and as such, the recorded report may be used to impeach the giver who attempts to drastically alter the story.
  - c. It reveals information which may be useful in defending a claim or making an equitable settlement.
  - d. No recorded report of anyone who is not of age may be taken without the expressed permission of their parent or legal guardian.
2. If securing a recorded report of the insured, PCLU Claims Examiner must coordinate with the WCU staff to eliminate redundancy as appropriate. Ideally, only one recorded report of the insured driver is to be obtained.
3. In cases of motor vehicle accident, Claims Examiner must “reconstruct” the accident by creating his/her own accident scene diagram. Using nonproprietary software available online, such as the *Build Your Own Accident Scene Diagram* at [www.claimspages.com](http://www.claimspages.com) is preferred. This must be done regardless of what other parties might be submitting in the form of a diagram.
4. Claims Examiner must review any available claims index bureau report and provide an appropriate plan of action to be documented in RMIS. If, upon receipt of a new claim, Claims Examiner determines that no claims index report has been obtained yet, he/she shall inform his/her manager or designee and request that a claim submission to the

claims index bureau be completed. Even third-party claimants who may not be of age at the time of loss must be indexed in anticipation of the District's compliance with federal claims reporting requirements.

5. Regardless of claim severity, a "first page" must be completed by the claims examiner within five calendar days of receipt of the claim.
  - a. It must be coded to RMIS *NOTE* code 1150, *Initial Claims Examiner Summary Report*.
  - b. It must have a RMIS description of "FIRST PAGE."
  - c. It must at the minimum be captioned as follows:
    - I. **CASE SUMMARY**  
(State the facts of the case. Begin with the phrase "Claimant alleges that...")
    - II. **ASSESSMENT**  
(Provide a thoughtful evaluation of the merits of the case.)
    - III. **PLAN OF ACTION (POA)**  
(Provide a numbered outline of action items to be taken to bring case to final resolution. Must include target dates. Appropriate diaries must be created in conjunction with POA.)
6. Recorded reports may be transcribed if necessary.
7. Written statements must be obtained immediately from other parties as appropriate.
8. Evidence must be secured and preserved from the outset. Proof of a chain of custody is required.
9. Referral to FIU Supervisor, if appropriate, may be accomplished by completing a field investigation work order. *The extent of the investigation must be controlled by the claims examiner.*
10. Referral to an independent investigator is appropriate for accidents that may be classified as catastrophic. When an external assignment is made, the claims examiner's manager or designee's prior approval, the reasons for the independent investigation, together with specific instructions and directions by the claims examiner, must be evidence in the claim file. *Similarly, as in the foregoing paragraph, the extent of the investigation must be controlled by the claims examiner.*
11. The RMIS flag of a new claim must be updated from "P" for Pending to either "A" for Accepted or "D" for Denied within 30 calendar days of receipt of the claim.

## XV. THIRD-PARTY CLAIMANT DEMAND LETTER

**Purpose:** To avoid the pitfalls of bad faith, it is our philosophy to respond to a claimant's demand letter, adhering to insurance law guidelines and trade practices, as expeditiously as possible. Specifically, claims staff must be familiar with Chapter 686A of the NAC: *Insurance Trade Practices and Frauds*. The district has a duty to act reasonably as it decides whether or not to accept a claimant's demand.

**Standard:** Within 30 calendar days of receipt of the claimant's demand letter, a formal written response must be sent to the claimant.

**Procedure:** The timeliness standards included in this procedure have been established in conjunction with District Regulation 3432, *District Claim Resolution*. Multiple signatories may be required on the district claim resolution authorization form, more commonly known as SAID form, before sending a formal written response to the claimant. As such, each signatory must be afforded ample time to thoroughly review the claim.

1. Complete an appropriate SAID form and concurrently negotiate a tentative settlement with the claimant within 14 calendar days of receipt of the demand letter.
2. Once a proposed settlement has been reached, send a formal written response to the claimant confirming the terms of the proposed settlement and noting that such terms are contingent, tentative and subject to final approval as required by District Regulation 3432.
3. Route the SAID form along with all the supporting documentation to required signatories.
4. Upon obtaining all the required signatures, execute an appropriate claim release form.
5. RMIS documentation will be created by the ASU staff as follows:
  - a. On the same day the claimant's demand letter was received, attach a NOTE coded to 3333, *Demand Package* to the claim.
  - b. Create new DIARIES:
    - 1) Same day: DIARY coded to 3333 and marked *Critical* assigned to the Claims Examiner.
    - 2) 10-day reminder: DIARY coded to 8080, *SAID* and marked *Critical* assigned to the Claims Examiner.

- 3) 10-day “shadow” reminder: DIARY coded to *1199, Supervisor/Manager Review* and marked *Critical* assigned to the PCLU Claims Manager.
- 4) 20-day reminder: DIARY coded to *8888, Claim Disposition Review* assigned to both the Claims Examiner and the PCLU Claims Manager.

## XVI. SETTLEMENT

**Purpose:** To ensure that claims staff adhere to established guidelines to include the following but are not limited to:

- Resolution of claim conforms to case law, statutory, or regulatory requirements.
- Examination of claim is subject to Board-delegated authority and is made in accordance with the levels of settlement authority outlined in District Regulation 3432.
- Funds are available from either a self-insurance reserve account or from funds budgeted for that purpose.
- District liability is probable.
- Compromise of disputed claim is in the best interest of the District.
- Litigated cases may be settled extrajudicially if it is in the best interest of the district.
- Claims staff may not authorize payments for cases that are part of their assigned caseload.

**Standard:** Claims staff must comply with the provisions of District Regulation 3432, *absolutely with no exception.*

The timeliness standards included in this procedure have been established in conjunction with the above noted regulation. Multiple signatories may be required on the district claim resolution authorization form, more commonly known as SAID form, before sending a formal written resolution letter to the claimant. As such, each signatory must be afforded ample time to thoroughly review the claim.

Concluding a claim as expeditiously as possible will reduce expenses and future liability.

If an unemancipated minor has a claim against the district, claims staff shall have the options to conclude the claim either through (1) a parent or guardian's release of all claims or (2) a minor's compromise, which is subject to approval by a court of competent jurisdiction. RMIS must reflect explanation and justification that the option chosen was in the best interest of the district. If option #2 is chosen, it will be the responsibility of the minor's parent or guardian and not the district's to perfect a petition for minor's compromise.

Claims staff must be familiar with Chapter 41 of the NRS: *Actions and Proceedings in Particular Cases Concerning Persons.*

**Procedure:** 1. Within 14 calendar days of determining that a claim may be ripe

for resolution or settlement, complete an appropriate SAID form and concurrently negotiate a tentative settlement with the claimant.

2. Once a proposed settlement has been reached, send a formal written letter to the claimant confirming the terms of the proposed settlement and noting that such terms are contingent, tentative and subject to final approval as required by District Regulation 3432.
3. Route the SAID form along with all the supporting documentation to required signatories.
4. Upon obtaining all the required signatures, execute an appropriate claim release form.
5. Under no circumstances shall claims staff give advice to a minor's parent or guardian on how to execute a petition for minor's compromise, except to inform them that self-help forms are readily available from the Clark County Law Library.
6. If, after thoughtful evaluation and consultation with District Counsel, it has been determined by claims staff that the likelihood of the minor pursuing action against the district upon his or her reaching the age of majority is slim, a parent/guardian's release of all claims should be considered.
7. Satisfaction of properly executed liens specifically filed against the name of the "Clark County School District" must be made part of the overall claim resolution process. It is permissible for claims staff to negotiate this type of lien as any reduction to the lien, no matter how small, will be of benefit to the district.
8. Claims staff must be familiar with NRS 108.650: *Payment to Injured Person after Notice of Lien; Liability and Payment to Hospital*. A hospital that is publicly owned or not for profit has a cause of action if its lien is not satisfied in the manner prescribed by law.
9. Theoretically, an out of court settlement can be achieved at any point up until a jury or judge comes back with a final verdict. This means that claims staff have ample time to exhaust all possible avenues to conclude a claim extrajudicially. Also, consider some telling statistics:
  - About 90% of personal injury cases settle without ever going to trial or even having a suit filed.
  - Of the 10% of the cases that are actually calendared to go to trial, about 90% of them settle before trial.

10. A claim may be considered as “ripe” for resolution or settlement if any of the conditions below are present but are not limited to:
  - a. Claimant has reached maximum medical improvement.
  - b. Claimant has been discharged from medical care.
  - c. Claimant has willingly signified his or her intention to settle.
  - d. Claims staff have decided to settle based on the nuisance value of the case.
  - e. Case is a qualified Fast Track claim.
  - f. Findings from an independent medical examination or medical records review support claim resolution.
  - g. Parties are willing to compromise.
  - h. Case has already dragged on too long and could be considered “out of the norm.”
  
11. Claims staff must take the initiative to utilize an independent medical examination (IME) and/or an agreed medical examination (AME) when appropriate.

## **XVII. EXCESS LIABILITY CLAIM REPORTING**

**Purpose:** Excess liability policy protects the District from certain large exposures. Typically, a loss that could potentially erode the District's SIR is the type of loss that needs to be reported to the excess liability carrier.

It is important to understand that the District has a duty to report. If the District breaches that duty, its ability to look to the excess liability carrier for reimbursement of cost expended on certain claims may be jeopardized.

**Standard:** The date of loss or occurrence will dictate what excess insurance carrier needs to be notified and what specific SIR might apply. Therefore, staff members must be familiar with the District's SIRs, its excess insurance carriers, and contact information for each of the carriers.

Within five business days of receiving knowledge that a claim could potentially erode the District's SIR, staff member must, in writing, place the excess insurance carrier on notice.

If staff member is not sure whether or not a claim qualifies for reporting, staff member should err on the side of caution by sending it in.

**Procedure:** It is the responsibility of PCLU Claims Manager in collaboration with Insurance Services Manager to maintain a record, readily accessible by staff members, of excess insurance carrier information by program or policy year.

1. Claims Examiner handles a claim that qualifies for reporting based on any or combination of the following reasons, but are not limited to:
  - a) Exposure may exceed \$1,000,000
  - b) Demand or demands total \$1,000,000 or more
  - c) Death
  - d) Paralysis, paraplegia, quadriplegia
  - e) Loss of eye(s) or limb(s)
  - f) Spinal cord or brain injury
  - g) Sensory organ or nerve injury, or neurological deficit
  - h) Serious burns
  - i) Substantial disability or disfigurement
  - j) Loss of work time of six month or more
  - k) Suit filed
  - l) Loss involving multiple individuals, such as class actions or vehicular accidents in which several people are hurt
  - m) Claim that has been handled for a while and has now eroded more than half of SIR
  - n) Allegation of civil rights violation



- o) Sexual assault or molestation
  - p) Loss that occurred outside of Nevada
  - q) No claims filed yet but it is all over the news media
2. Claims Examiner sends an initial written notice of loss to the appropriate excess insurance carrier.
  3. Claims Examiner sets, at the minimum, the following review diaries:
    - a) At 30 days: DIARY coded to *2100 – Excess Insurance*
    - b) At 6 months: DIARY coded to *2160 – Excess Insurance Review*
    - c) At 1 year: DIARY coded to *2199 – Excess Insurance Review*
  4. Short or long diaries may be created depending on the excess insurance carrier's specific requirements or guidelines.

## XVIII. SUBROGATION

**Purpose:** Subrogation will be given a high priority as timely pursuit of all possible avenues of recovery can control the cost of claims for the District. Recoveries may be from a third party who bears some responsibility for causing the injury or loss.

CMSS must fully cooperate with Affirmative Claims Unit housed in the Office of General Counsel in order to maximize the recovery potential.

**Standard:** At the time of initial receipt, every new claim must be reviewed to determine if there is potential for some form of recovery.

When appropriate, documentation and preservation of evidence must be conducted promptly. Staff members are to observe proper chain of custody protocol.

Appropriate written notice of subrogation rights must be sent to the responsible third party within 30 calendar days of receipt of the claim.

RMIS must evidence subrogation review and clear indication if there is or is not potential for some form of recovery.

- Procedure:**
1. Claims Examiner receives new claim assignment.
  2. Claims Examiner completes new claim review to include identification of recovery possibilities. Potential third party recovery includes, but is not limited to the following:
    - a) Automobile accidents
    - b) Unsafe or dangerous conditions created by a subcontractor or general contractor
    - c) Failure or malfunction of machinery
    - d) Poorly designed machinery
    - e) Injury or loss occurs on premises owned by someone other than the District
    - f) Defective products
    - g) Improperly labeled products, especially chemicals
    - h) Inadequate instructions or warnings on the proper use of a product
    - i) Intentional acts intended to inflict harm on another
    - j) Breach of legal duty owed by someone to the District
    - k) Embezzlement of District funds
    - l) Theft of District-owned property
  4. If it is determined that subrogation is to be pursued, Claims

Examiner notifies the responsible third party by sending a written notice of subrogation rights.

5. Claims Examiner updates the appropriate screen in RMIS to reflect subrogation information.
6. As much as reasonably possible, subrogation efforts will be made by Claims Examiner by means of desk investigation. When appropriate and necessary, use of outside expertise will be utilized, but only with the concurrence of management and/or District Counsel.
7. When appropriate and necessary, Claims Examiner shall utilize FIU Supervisor in gathering information for the subrogation efforts.
8. All activities in regard to subrogation must be documented in RMIS. If review and/or investigation indicates that it is not possible or desirable to pursue subrogation, RMIS must evidence reasons as to why subrogation was not pursued.
9. Concurrence by PCLU Claims Manager or designee is required before abandoning subrogation efforts involving claims with an actual or anticipated paid-out amount in excess of \$500.00.
10. Claims Examiner must provide subrogation status updates periodically, either through automatic or manual diaries.

## **XIX. FILE REVIEW AND STATUS REPORTS**

**Purpose:** To keep the RMD Director or designee abreast of claim development of already incurred and potentially large dollar losses, captioned file review and status reports shall be completed by claims staff.

**Standard:** At least every 90 calendar days, a file review and/or status report must be submitted to the RMD Director or designee for open claims meeting any of the following descriptions, but are not limited to:

- Third-party liability claims with total incurred of \$100,000 or greater
- First-party property claims with total incurred of \$50,000 or greater
- Claims being litigated in federal court
- Claims that have been open for more than two years

The narrative to be included in the report must be concise, specific and clear. It should be six sentences or less in length.

- Procedure:**
1. Claims Examiner reviews claim and drafts a file status report consistent with adopted captioned format of CMSS.
  2. Draft captioned format report is forwarded to PCLU Claims Manager and then on to the CMSS Coordinator for review and comments.
  3. Administrative Clerk proofreads final draft to ensure proper grammar and format.
  4. Report is printed in electronic or hard copy format and then forwarded to the RMD Director.
  5. Appropriate new diary is created for the next scheduled review.

## XX. FILE DOCUMENTATION AND DIARIES

**Purpose:** Each claim file is to “speak for itself.” It must be able to communicate to an average person the development and management of the claim. Documentation must be an accurate reflection of the work performed. Contents are to be maintained in chronological order.

To ensure proper follow-up on actions needed to move a claim to resolution in a timely manner, appropriate diaries must be maintained.

**Standard:** Automatic diaries are diaries that get set mechanically by RMIS when a certain event occurs. On the other hand, custom diaries are those that get entered manually into RMIS by claims staff. Diaries are for the future and, as such, have a blank RMIS *Done Date*.

In general, notes are declarative statements evidencing a fact, an idea, a completed action plan, etc. directly related to the handling of the claim. Unlike diaries, notes are not for the future. Therefore, notes must always have a RMIS *Done Date*.

No diary must be left open five calendar days past its due date.

Claims staff are prohibited from extending a diary by directly changing its original due date.

Claims staff are to adhere to the “one diary-one note” policy. No notes with different dates of entry can be lumped together under a single RMIS *Note*.

Except to the extent that the law, rule or regulation expressly prohibits destroying original hard copies, paper documents received by claims staff must be disposed of properly after scanning and attaching them to the claim as a PDF file.

- Procedure:**
1. RMIS documentation must be objective, accurate, factual and grammatically sound.
  2. Common industry abbreviations may be used.
  3. Personal, prejudicial and judgmental remarks must be avoided at all times.
  4. Make all entries as if they were to be disclosed in court.
  5. An indicator of fraud does not necessarily prove that the claim is fraudulent or otherwise without merit. Only special prosecutors can carry fraud investigations through conviction. Therefore, claims staff

must refrain from using words such as *fraud*, *fraudulent*, *malingerer*, *faker*, and the like when entering RMIS documentation.

6. Privileged communication, especially where the matter communicated involves defense strategy in anticipation of litigation, must be entered under NOTE code to *1190, Privileged Communication*.
7. When a diary becomes due:
  - a. Complete the action plan that is required.
  - b. In the space provided, enter a text description that begins with "REVIEWED FILE ON DIARY." Continue on by entering appropriate declarative statements.
  - c. If applicable, enter a new plan of action under the heading POA with target dates.
  - d. Close the diary by populating the *Done Date* field.
  - e. If applicable, create a new diary that is consistent with the new POA.
8. Any deviation from the required action plan as outlined in the diary must be clearly explained and documented in RMIS.
9. A separate supervisor/manager's diary coded to *1199, Supervisor/Manager Review* must be maintained to evaluate the following types of claim at least once every 90 calendar days.
  - a. Brain injuries
  - b. Paralysis
  - c. Amputation of a major extremity
  - d. Loss of vision
  - e. Litigated claims
  - f. Severe burn injuries
  - g. Claims that may not be subject to state tort cap
  - h. Unresolved claims open for over one year
  - i. Unresolved claims with an incurred value over \$50,000
  - j. All other serious or unusual claims on which the claims examiner may need assistance or guidance
10. Any subpoena for records must be forwarded to the ASU Claims Manager who may consult, as needed, with District Counsel prior to responding to the subpoena.

## XXI. QUALITY ASSURANCE

**Purpose:** Desk evaluations and self-audits will be utilized to measure CMSS staff members' conformity with the claims handling standards contained in this manual. Additionally, they will also be utilized to identify areas that could be improved upon to sustain the delivery of quality work.

Claims staff development and training needs will be defined based on the outcome of the self-audit. Feedbacks received from customers will be reviewed and developed into possible opportunities for improvement.

Finally, self-audit findings can be tied in to staff performance appraisal making it more objective and less subjective.

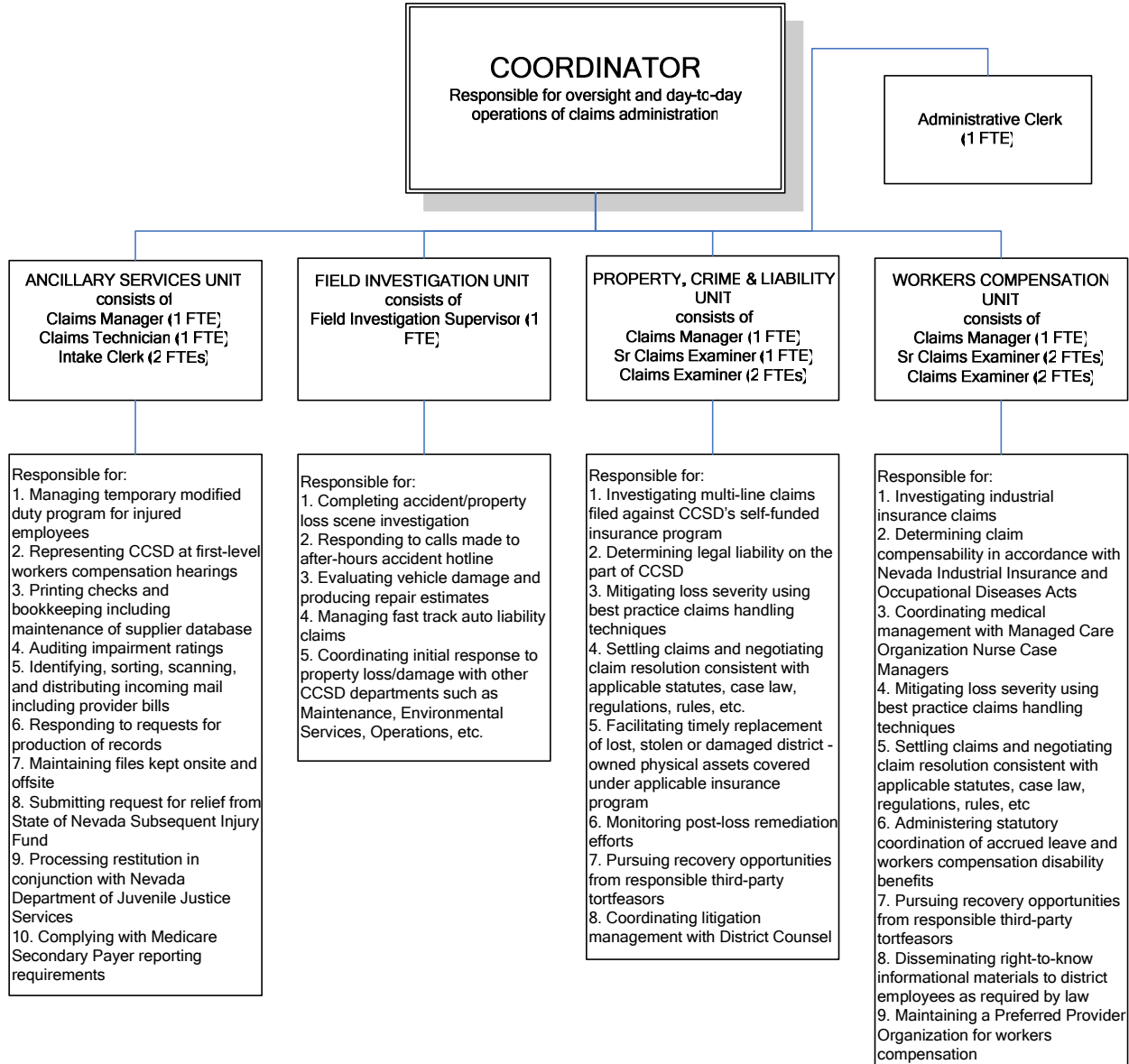
**Standard:** On a monthly basis, PCLU Claims Manager will randomly select at least 10 files per claims handler to evaluate the work product of the claims handler.

On a quarterly basis, CMSS Coordinator will randomly select at least 10 files to evaluate the quality of the leadership and direction by the manager.

**Procedure:**

1. PCLU Claims Manager shall confirm that each claims handler has read and understood the standards contained in this manual.
2. The results of the desk evaluations and self-audits will be documented by means of an audit worksheet and discussed with the claims handler. In this exercise, the claims handler is a customer whom the evaluator serves by providing resources for professional development.
3. PCLU Claims Manager from time to time may be asked to attend Director's meetings or the like to present a detailed production report, explain any variances, and propose corrective measures if necessary.

**APPENDIX A  
CLARK COUNTY SCHOOL DISTRICT  
Risk Management Department**



**Functional Organizational Chart  
of  
Claims Management Services Section**



**APPENDIX B**  
**COMPENDIUM OF CASE LAW, LEGAL TREATISE SYNOPSES, AND**  
**LARGE SETTLEMENTS/VERDICTS AGAINST PUBLIC ENTITIES**

**IMPORTANT NOTICE TO THE READER**

**This is NOT held out to be an exhaustive compilation. As law is ever changing and ever growing, as well as its interpretation and application, the reader of this manual is cautioned to make every effort to update with current court decisions and statutory passages.**

**Actual settlements and verdicts against public entities in other jurisdictions are provided herein to give the reader some flavor of the dynamics of civil litigation. The reader is cautioned that what might be allowed in one state might not be allowed in Nevada. Again, the reader of this manual is reminded to make every effort to update with current court decisions and statutory passages applicable to Nevada jurisdiction.**

**Finally, the writer of this manual does not assert ownership of any copyrighted materials that may have been included in this manual. Materials found on the world wide web belong to their respective owners. They will be removed if requested by their respective owners.**

## CASE LAW AND LEGAL TREATISE SYNOPSES

### TYPES OF LIABILITY

<b>Type</b>	<b>Nature of Act</b>	<b>Who Brings Action</b>	<b>Outcome</b>
Contractual	an agreement between two parties which creates an obligation to do or not to do a particular thing	the person injured due to the breach of contract sues the other party	the court orders performance or monetary compensatory actual damages to be given to the injured party
Criminal	an act against an individual which offends society, and therefore is considered an act against society	the government investigates and brings action against offender on behalf of the injured victim	fine and/or jail; some states have a statute providing for monetary compensation to victim
Human Rights	violation of statute or constitutional provision guaranteeing certain rights to individuals	the government sues for compliance with statute; injured person can sue for restitution; an organization can sue on behalf of a person	restitution to person whose rights violated; compliance mandated
Torts	injury to person's body, property, or reputation by another individual	unintentional acts (negligence) – injured sues one who injured (tortfeasor) or corporate entity (respondeat superior) or both; all who had anything to do with the situation likely to be sued  intentional act – usually injured sues tortfeasor, respondeat superior not applicable	actual monetary compensatory damages; intentional torts may additionally assess punitive damages

### SOME DEFENSES RELATED TO DEFENDANT'S ACTS

- Elements of negligence not proven
  - 1) standard of care
  - 2) duty
  - 3) proximate cause
  - 4) actual loss or damage

- Last clear chance doctrine – It is really not a defense for a defendant, but rather an allegation by the plaintiff that the defendant should be held liable in spite of the plaintiff's contributory negligence. If the plaintiff through one's own negligence puts oneself into a dangerous position from which one could not help oneself out of danger, and the defendant seeing the plaintiff's peril and having the "last clear chance" or opportunity to avoid the inflicting of the injury by ordinary care, fails to exercise such care, that defendant is responsible. However, where plaintiff pleads negligence and defendant pleads assumption of risk, that is end of chain, because once plaintiff accepts risk, defendant no longer owes a duty to him.
- Sudden emergency doctrine – It recognizes that a person suddenly and unexpectedly placed in a position of impending peril usually will not, and should not be expected to, exercise the judgment and discretion of a person under normal circumstances. Although this doctrine makes allowances for the imperfections of human behavior, the actor must conduct himself as would a reasonable and prudent person under the same or similar circumstances. He may still be found negligent despite the emergency if his actions are deemed to be unreasonable.
- *Ultra vires* act defense – The corporate entity should not be held responsible for the alleged negligent act of its employee because the employee acted outside the scope of responsibility or authority.
- Limited immunity/liability – A person is not liable for acts of negligence unless he was grossly negligent or acted willfully and wantonly to injured the victim.
- Assumption of risk – A person may not recover for an injury received when one voluntarily exposes oneself to a known danger inherent in the activity.
- Exculpatory clause (waivers and releases) – It is a contract between the plaintiff and the defendant, signed prior to participation in activity, that the plaintiff, if injured, will not hold the defendant for any negligence of the defendant. Therefore, there would be no determination of fault. The defendant would be excused from any negligence which may have resulted in injury and damages to the plaintiff on the basis of a valid contract.

### **PAUL D. COVERDELL TEACHER PROTECTION ACT OF 2001**

- Enacted in conjunction with the No Child Left Behind Act
- The purpose is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment. *Coverdell* immunizes these school professionals from simple negligence. Thus, for the plaintiff to prevail, he must show gross negligence.
- The *Nevada Pattern of Jury Instructions* defines "gross negligence" as follows:
 

*Gross negligence is substantially and appreciably higher in magnitude and more culpable than ordinary negligence. Gross negligence is equivalent to the failure to exercise even a slight degree of care. It is materially more want of care than constitutes simple inadvertence. It is an act of omission respecting legal duty of an aggravated character, as distinguished from a*

*mere failure to exercise ordinary care. It is very great negligence, or the absence of slight negligence or the want of even scant care.*

- As a general rule, simple negligence means negligence which is neither gross nor wanton. It means the failure to use ordinary care. It differs from gross negligence in degree, but not in kind.

### **AGGRAVATION OF PRE-EXISTING MEDICAL CONDITION IN THE CONTEXT OF PERSONAL INJURY**

- If a preexisting medical condition is made worse or exacerbated by the accident, the claimant may be entitled to recover. However, anything old should not be compensable; only anything new should be. This is a question of fact for the civil jury to decide. Tracking down records may be time consuming, but may be the key to differentiating old from new injuries.

### **PROBABLE VERSUS POSSIBLE**

- Probable: That which has the appearance of truth; that which appears to be founded in reason; that which there is enough evidence to lead any reasonable person to believe; that is more likely than not
- Possible: That may or may not happen or have happened; feasible but less than probable
- Opinions based upon possibility are not necessarily admissible.

### **PEDESTRIANS CROSSING THE STREET**

- Not all pedestrians use common sense. While a driver must yield to the right of way to a pedestrian crossing the street in a crosswalk, a pedestrian may not suddenly leave a curb or other place of safety so as to produce an immediate hazard.
- When no crosswalk is available, a pedestrian shall yield to the right of way to all vehicles.
- Once a pedestrian begins to cross the street where traffic is controlled by an automatic signal device, and before completing the crosswalk the signal changes, the pedestrian is not required to retrace his steps, nor stand still, but may proceed exercising ordinary care.

### **CONVICTION OF A MISDEMEANOR TRAFFIC OFFENSE INSUFFICIENT TO TRIGGER NRS 41.133**

NRS 41.133 reads: **Conviction of crime is conclusive evidence of facts necessary to impose civil liability for related injury.** *If an offender has been convicted of the crime which resulted in the injury to the victim, the judgment of conviction is conclusive evidence of all facts necessary to impose civil liability for the injury.*

- In *Langon v. Matamoros*, 121 Nev. 142, 111 P.3d 1077 (2005), the Nevada Supreme Court held that a misdemeanor traffic offense is not considered an offense for purposes of NRS 41.133.

- In *Cromer v. Wilson*, 126 Nev. Adv. Op. No. 11 (March 11, 2010), the Nevada Supreme Court held that NRS 41.133 does not abrogate the law regarding comparative negligence or damage. Therefore, while NRS 41.133 establishes a conclusive presumption of liability, a defendant may argue comparative negligence pursuant to NRS 41.141 to reduce an award of damages at a trial as to damages only.

### **DRIVING IN THE EXTREME RIGHT LANE**

- Driving in the extreme right lane, sometimes referred to as a storage, emergency or breakdown lane, to overtake and pass upon the right of a traffic line that is backed up is not allowed. This is the lane that is separated from the travel lanes by a solid white line. Many drivers mistake this for a really long turn lane.
- True right turn lanes are, by usual design, about 100 feet in length and will be posted as a “Right lane must turn right” or “Right turn only” sign. Drivers must remain in the traffic line that is backed up until they reach the true turn lane.

### **DISTRACTIONS WHILE DRIVING**

- Many motor vehicle accidents are caused by drivers not paying attention. When completing an initial claim investigation and fact finding process, ask probing questions to elicit responses on possible distractions such as:
  - 1) Talking on the cell phone
  - 2) Texting
  - 3) Eating and drinking
  - 4) Talking to passengers
  - 5) Grooming
  - 6) Reading
  - 7) Using a PDA or navigation system
  - 8) Watching a video
  - 9) Being a DJ/changing the radio station, CD, or MP3 player
  - 10) Adjusting steering wheel, mirror, seat, etc.
  - 11) Police stops
  - 12) Car wrecks on the road/drivers rubbernecking
  - 13) Billboards

Evaluation of possible distraction may be used to pin down the proximate cause. It may also be used to invoke comparative negligence.

### **THE HALLMARK STANDARD: NEVADA SUPREME COURT RECOGNIZES EXPERT STANDARDS OF FEDERAL COURT**

- In *Hallmark v. Eldridge*, 124 Nev. Adv. Op. No. 48, 2008, the Nevada Supreme Court laid out the specific consideration a court and attorney must be aware of when hiring an expert and laying foundation for expert testimony in a Nevada Court.

- The court ruled that opinions of experts must be based on a methodology, and not generalizations. Too often, accident reconstructionists would merely do calculations based on their perceptions and make an “expert opinion” based on their own criteria of “to a reasonable degree of medical and/or biomechanical probability.”
- The court ruled this is in essence a joke and not expert testimony because it lacks a methodology of encompassing a totality of factors.
- When an assessing an expert, the following factors must be considered. They are not exhaustive, may not be given equal weight, and may not apply exactly to every case.

Do they possess proper and adequate credentials?

- 1.) Scientific, technical, or specialized knowledge proven by formal schooling and academic degrees, licensure, employment experience, and practical experience and specialized training
- 2.) Recognized expertise in the field generally accepted in the scientific community
- 3.) Testable and have been tested
- 4.) Published peer-reviewed literature

Do they have a methodology?

- 5.) Based more on particularized facts, rather than assumptions, conjecture, or generalizations.
- 6.) If opinion was formed by calculation, experiment, or technique, was it then controlled by known standards
- 7.) Was the testing similar to conditions at the time of incident
- 8.) Do the calculations experiments or techniques have a known error rate.

### **INVITEE, LICENSEE AND TRESPASSER**

- An **invitee** is one who enters upon the premises with the owner’s implied or express consent, for the mutual benefit of himself and the owner, or a purpose connected with the business in which the owner is engaged or permits to be carried on upon the premises.
- A **licensee** is one who enters upon the premises with the owner’s express or implied consent to satisfy his own purposes rather than for the mutual benefit of himself and the owner or a purpose connected with the business in which the owner is engaged or permits to be carried on upon the premises.
- A **trespasser** is one who enters upon the premises of another with neither permission nor invitation.
- It must be recognized that someone who enters upon the premises may change status while on the property, with consequent change in duty owed. For example, a trespasser who is “discovered” and permitted to remain on the property may become a licensee.
- Generally, the duty owed an invitee is that of “reasonable care,” the greatest owed of the three classifications – invitee, licensee, and trespasser.
- The owner of property owes to a licensee the duty to refrain from injuring him by willful or wanton negligence, or by failure to warn of a hidden peril known to the

owner but unknown to or unobservable by the licensee in the exercise of ordinary care.

- Finally, there is no duty to exercise reasonable care owed a trespasser. One who is wrongfully on the premises must take the premises as one finds them and “be aware” for one’s own safety.

### **THE DOCTRINE OF RESPONDEAT SUPERIOR**

- It states that the negligence of the employee is imputed to the corporate entity if employee was acting within scope of responsibility and authority, and if not a willful and wanton act to injure another.
- Under the doctrine the “superior” or corporate entity must respond or be accountable for the actions of its employees.

### **THE DOCTRINE OF RES IPSA LOQUITUR**

- In establishing negligence, the plaintiff may allege that the standard of care is such that “the thing speaks for itself” and the recovery should be granted without further proof. The risk is so great, so unreasonable, that the danger is obvious.
- As a general rule, to apply the doctrine two factors are necessary, although the presence of the two factors does not infer negligence: (1) the instrumentality must be under the exclusive control and management of the defendant, and (2) the occurrence must be such that in the ordinary course of things it would not have happened if defendant had used reasonable care.

### **THE DOCTRINE OF IN LOCO PARENTIS**

- It means that the individual or agency which is providing for a child stands in the place of a parent and is charged with a parent’s rights, duties, and responsibilities. A school when it accepts children assumes certain parental responsibilities and must act in relation to the child as the “reasonably prudent parent” would, protecting the child from dangers and preventing the child from engaging in self-injury and irresponsibilities. Therefore, a duty can arise from the parental relationship assumed.
- As a general rule, the applicability of the doctrine of *in loco parentis* to duty should be distinguished from negligence as related to the activity in which the child is engaged. This doctrine does not extend beyond matters of conduct and discipline.

### **PLAYGROUNDS**

- Almost all playground cases allege lack of supervision; however, most all cases hold that general supervision is all that is required.
- While the school is not an insurer of safety, there must be supervision when children are on the playground during times when the school is in charge of the playground, e.g., recess, lunch time; the duty owed is that of a reasonable prudent parent.

- The fact that each student is not personally supervised every moment of each school day does not constitute fault, nor does spontaneous and/or planned acts of violence by students on school grounds create liability if the school ground is *well supervised*. However, those supervising should be alert for prohibited or dangerous activity.
- **General supervision** has two dimensions as follows:
  - 1.) When engaged in *individual-oriented supervision* the focus of the supervision is on the individual's manner of engaging in the activity. For example, a physical education teacher supervising a weight room watches if individuals are properly using the equipment.
  - 2.) When engaged in *group behaviors-oriented supervision* in a facility or on an area, e.g., athletic fields, parks, one must be aware of the behaviors of people and dangerous conditions. The extent of general supervision which must be given depends upon the density of use of the area or facility; the greater the density, the greater the extent of general supervision.

**CHARACTER OF DEFENDANT'S CONDUCT AND LIABILITY** (Van der Smissen, 1990)

Character of Conduct						
not negligent	ordinary negligence	gross negligence	reckless disregard or willful negligence	willful and wanton misconduct	willful and malicious misconduct	<b>felonious intent</b>
Liability of Conduct						
no liability	unintentional tort liability		intent implied liability	intentional tort liability		<b>criminal act</b>



## LARGE VERDICTS AND SETTLEMENT AGAINST PUBLIC ENTITIES

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**State: AK**

**Public Entity: State of Alaska**

**Type of Entity: State**

**Settlement: \$ 500,000**

**Date of Loss: 1/1/2004**

**Date of Verdict/Settlement: 9/27/2007**

**Facts:**

Excessive Force: Kevin Patrick brought a lawsuit against the state of Alaska, alleging that Alaska State Trooper Eric Spitzer used excessive force while dealing with him. Back in 2004, a jury awarded Kevin Patrick \$1 million after they found that Spitzer used excessive force while arresting Patrick in Emmonak. The state appealed the decision. Patrick's legal counsel claimed that his client was tortured and brutalized by a taser gun after he was handcuffed. He also said he has represented two other clients who said Spitzer used excessive force on them. In a settlement reached, the state agreed to finally end litigation by paying Patrick over \$500,000. Sources state that this is the third time the state has had to settle over Spitzer's actions. (Sep-27-07)

**State: AL**

**Public Entity: State of Alabama**

**Type of Entity: State**

**Settlement: \$ 12,500,000**

**Date of Loss: 1/1/2001**

**Date of Verdict/Settlement: 5/7/2007**

**Facts:**

A dozen girls claimed that they were abused at a youth detention center near Birmingham, Alabama. The allegations of sexual and physical abuse at the state Department of Youth Services detention center in Chalkville surfaced in 2001, eventually leading to fifteen employees being fired or resigning voluntarily. The suit was filed against DYS and some of its employees in 2001, followed by several other suits with the dozen girls suing in various state and federal courts. The girls were minors at the time of the alleged abuse, but were 18 at the time of filing suit. In a settlement reached, the state agreed to pay \$12.5 million to settle the sexual abuse lawsuits against it. Each of 49 plaintiffs will receive \$255,102 from the settlement, and each must pay expenses and attorney fees from their share.

**State: AR**

**Public Entity: State of Arkansas**

**Type of Entity: State**

**Settlement: \$ 1,000,000**

**Date of Loss: 3/7/2006**

**Date of Verdict/Settlement: 5/3/2007**

**Facts:**

Larry Norman, a former state trooper pleaded guilty to a negligent homicide charge over the fatal shooting of a mentally disabled man mistaken for a fugitive on 3/7/2006. Joseph Erin Hamley was mistaken to be a suspected escapee near the Benton-Washington county line, when Norman and several other officers responded to the call. Officers expecting to find the felon, found Hamley, who refused officers' commands to keep his hands out of his pockets, which his mother later described as a nervous habit. Police reports show that Hamley was lying on his back and Norman fired after being on the scene less than a minute, after ignoring a command to block traffic and driving to the scene at 100 mph with his radio on. Norman pleaded guilty, claiming he mistook Hamley's actions as a threat. He faces up to a year in

county jail and a fine of \$1,000 over the misdemeanor charge. The Arkansas State Police gave a \$1 million settlement check to the family of Joseph Erin Hamley for his wrongful death.

**State: AZ**

**Public Entity: Maricopa County**

**Type of Entity: County**

**Verdict: \$ 4,600,000**

**Date of Loss: 8/6/2001**

**Date of Verdict/Settlement: 3/29/2006**

**Facts:**

Excessive Force: Charles J. Agster III, a mentally disabled 33 year old who was high on drugs, was arrested and taken to the Maricopa County jail, where he was placed in a restraint chair. His respiration decreased, he developed an irregular heartbeat, and he became unconscious. He was then transported to a hospital, where he died. In 2006, a jury awarded \$9 million to the family of Charles Agster. A federal judge later reduced that to \$4.6 million.

**State: AZ**

**Public Entity: Maricopa County**

**Type of Entity: County**

**Settlement: \$ 2,000,000**

**Date of Loss: 12/1/2005**

**Date of Verdict/Settlement: 6/1/2007**

**Facts:**

Excessive Force: The family of Clint Yarbrough filed a wrongful death lawsuit against Maricopa County after Yarbrough died in Maricopa County jail. Yarbrough was brought into the Fourth Avenue jail in December 2005, where sources say he appeared drugged and became combative. He was put in a restraint chair and wheeled to a hallway where he sat for more than three hours, eventually passing out. He was transported to a local hospital where he died, leading the family to file claims against the county and the sheriff's department. In a settlement reached, the county board of supervisors agreed to resolve the claim for \$2 million.

**State: AZ**

**Public Entity: Pima County**

**Type of Entity: County**

**Settlement: \$ 1,950,000**

**Date of Loss: 3/1/2005**

**Date of Verdict/Settlement: 6/21/2007**

**Facts:**

The county agreed to pay \$1.95 million to the children and mother of Pedro Forrer, who was killed in the crash in March 2005. Forrer was driving on West Orange Grove near North La Canada Drive when his car unexpectedly swerved across the road into a guardrail. Part of the guardrail was a 4-inch diameter pipe, which impaled the driver. No reason was ever established for Forrer's crash. Forrer's death orphaned his three children, 6 months, 2 and 9. Their mother had died about three months earlier.

**State: AZ**

**Public Entity: Pima County**

**Type of Entity: County**

**Settlement: \$ 1,600,000**

**Date of Loss:**

**Date of Verdict/Settlement: 6/21/2007**

**Facts:**

David Hyman suffered medical complications while he was at a county assisted living center, Posado del Sol. Hyman, a quadriplegic living at La Posada, was afflicted when a physician inserted a feeding tube into his stomach. The tube apparently moved or shifted, leading to a

severe infection. The county agreed to a medical settlement of \$1.6 million, most of which would go to Arizona's Health Care Cost Containment System, which paid for Hyman's medical expenses.

**State: AZ**

**Public Entity: Pima County**

**Type of Entity: County**

**Settlement: \$ 2,290,000**

**Date of Loss: 10/5/2004**

**Date of Verdict/Settlement: 10/9/2007**

**Facts:**

Wrongful Death: Daphne Stidham, the widow of Dr. Brian Stidham, a slain eye surgeon, brought a lawsuit against former Pima County prosecutor Paul Skitzki, alleging that Skitzki's negligence resulted in the wrongful death of her husband. She claimed county prosecutors failed to warn her husband, Dr. Brian Stidham, 37, that another doctor wanted him killed. Brian Stidham was stabbed to death on Oct. 5, 2004. Records show that former eye surgeon Bradley Alan Schwartz, 42, and Ronald Bruce Bigger, 41, were convicted in separate trials and sentenced to life in prison in Stidham's death. As part of a settlement reached, Pima County agreed to a \$2.29 million payout to resolve the litigation. It has yet to be determined how much of the settlement will come from the county and how much from its insurance funds.

**State: AZ**

**Public Entity: Pima County**

**Type of Entity: City**

**Verdict: \$ 520,000**

**Date of Loss: 8/1/2004**

**Date of Verdict/Settlement: 10/19/2007**

**Facts:**

Pima County will pay \$520,000 to the parents of a 14-year-old girl killed by a speeding drunken driver on a dark street. A Pima County Superior Court jury decided after a five-day trial that the county was 13% at fault for the Aug. 1, 2004, death of Ebonee Moody. On Oct. 19, 2007 the jury awarded \$2 million each to Shirley and Leonard Moody. The jury decided that Mike Ellsworth Baker, who pleaded guilty to manslaughter and is serving 10 years in prison for Ebonee's death, was 74% responsible for Ebonee's death, which amounts to \$2.96 million. The girl was 13% responsible for her death, the jury decided. In addition to the \$4 million, the jury awarded the Moodys \$5 million in punitive damages against Baker. Leonard and Shirley Moody sued the county, saying it had an obligation to make the intersection safe to cross. After Ebonee's death, the county lowered the speed limit on Cardinal from 45 mph to 35 mph. Pima County also worked with school and tribal agencies to install a \$300,000 flashing crosswalk signal on Camino de Oeste near Hohokam Middle School, dedicated to Ebonee's memory.

**State: AZ**

**Public Entity: Maricopa County**

**Type of Entity: County**

**Settlement: \$ 2,000,000**

**Date of Loss: 4/15/2003**

**Date of Verdict/Settlement: 1/14/2008**

**Facts:**

Wrongful Death: The family of Brian Crenshaw brought a wrongful death lawsuit against Maricopa County after Crenshaw fell from a four-foot bunk, resulting in his death on 4/15/2003. The accident occurred after Crenshaw was put in isolation. He allegedly had a fight with the guards. While in isolation, he fell from the bunk. He was taken to the county hospital where he went into a coma and died. Crenshaw's mother, Linda Evans, filed suit, seeking compensation

for her son's untimely death. The county agreed to a \$2 million settlement with Crenshaw's family, resolving litigation.

**State: AZ**

**Public Entity: Pima County**                      **Type of Entity: County**

**Settlement: \$ 3,500,000**

**Date of Loss: 11/22/2008**

**Date of Verdict/Settlement: 10/19/2010**

**Facts:**

On 11/22/08, 91-year-old William Wilson turned his car to pull into the Westward Look Resort in Tucson, Arizona in front of bicyclists in the middle of the El Tour de Tucson race. 10 of those cyclists ran into Wilson's car, many of them suffering injuries. One cyclist, Gary Steube, suffered a severe traumatic brain injury and remained in a coma for 40 days. Wilson reportedly drove away from the scene of the accident, leaving five injured bicyclists in his wake. Wilson later pleaded guilty to leaving the scene of an accident and was sentenced to three years of probation. He alleged that he could not see the bicyclists because his vision was obstructed by vegetation in the median and by two lanes of cars that were backed up as a result of a crash farther up westbound Ina Road. The County settled for \$3.5 million on 10/19/10. Although the county normally pays the first \$2 million of any judgment or claim settlement, the Perimeter Bicycling Association took out a \$2 million policy on the event, which will cover the county's out-of-pocket obligation.

**State: CA**

**Public Entity: Los Angeles Unified School District**                      **Type of Entity: School District**

**Settlement: \$ 6,000,000**

**Date of Loss: 12/1/1984**

**Date of Verdict/Settlement: 3/13/1990**

**Facts:**

Molestation: March 13, 1990. District to pay \$6 million to 16 youngsters abused by teacher at two South-Central Los Angeles campuses. The money will go to 16 children who were molested by third-grade teacher Terry E. Bartholome at the 68th Street School in South-Central Los Angeles. The 19 parents or guardians who also were plaintiffs in the suit had sought more than \$200 million when the suit was filed in 1986. The payments will go toward psychological counseling, medical services and education as well as providing a source of income for the victims. Bartholome, arrested in 1985 after two years at the school, was convicted and sentenced in 1986 to 44 years in prison. That same year, a district administrator, Stuart N. Bernstein, was convicted of violating a state law that requires prompt reporting of molestation complaints to a child protective agency. Bernstein reported the allegations against Bartholome in December, 1984, to school district police instead of to the Los Angeles Police Department. Bernstein's conviction was overturned on appeal in 1987, and he has returned to the district as a regional administrator in charge of operations. Court documents showed district officials had received complaints about Bartholome's conduct while he was teaching sixth grade at 107th Street School, also in South-Central Los Angeles. The documents also showed the district had been aware when they hired Bartholome in 1967 that he had been arrested more than five years earlier for exposing himself to a group of nurses in Tacoma, Wash.

**State: CA**

**Public Entity: Los Angeles Police Dept.**

**Type of Entity: City**

**Settlement: \$ 15,000,000**

**Date of Loss: 10/12/1996**

**Date of Verdict/Settlement: 11/15/2000**

**Facts:**

Wrongful Conviction: on October 12, 1996: Javier Ovando was shot and paralyzed by LAPD Officer Rafael Pérez and his partner Nino Durden. The two officers planted a gun on the unarmed gang member and testified that Ovando shot first. He was convicted and sentenced to 23 years in prison, where he spent more than two years until the truth finally came out and he was released. Ovando was paralyzed from the shooting and remains in a wheelchair. He has bullet fragments lodged in his hip and a scar above his heart. The truth was revealed in 1999 as part of the Rampart investigation, and in the largest police misconduct settlement in city history, Javier Ovando was awarded \$15 million in November 2000.

**State: CA**

**Public Entity: Walnut Creek**

**Type of Entity: City**

**Verdict: \$ 27,750,000**

**Date of Loss: 7/6/2000**

**Date of Verdict/Settlement: 5/6/2003**

**Facts:**

Quadriplegia: Scott Shropshire a 20-year-old state diving champion was rendered a quadriplegic when he collided with a synchronized swimmer during diving practice in a public pool. The City of Walnut Creek, owner and operator of the pool, rented its dive pool to a diving team and a synchronized swimming team to hold practices at the same time without any means of separating the two inconsistent uses. The diver did not see a 15-year-old synchronized swimmer push off the wall under the diving board toward his landing area just as he began his dive. He struck the girl's hip and was left a quadriplegic. The girl suffered bruises. The pool now uses floating lane lines to separate the two groups. Shropshire received a verdict \$27.75 million verdict. The verdict was identified as the 12th largest in California and the 67th largest in the United States in 2003.

**State: CA**

**Public Entity: Los Angeles**

**Type of Entity: City**

**Settlement: \$ 4,500,000**

**Date of Loss: 2/9/2002**

**Date of Verdict/Settlement: 3/10/2004**

**Facts:**

Collision at Los Angeles Airport involving a police vehicle and an airline tug. On Feb. 9, 2002, plaintiff Henry Grill, 49, a fleet services clerk with American Airlines, was operating a cargo tug vehicle on the tarmac at the Los Angeles International Airport and was struck by a police vehicle. The case settled on 3/10/2004 for \$4.5 million.

**State: CA**

**Public Entity: Hueneme School District**

**Type of Entity: School District**

**Settlement: \$ 1,500,000**

**Date of Loss:**

**Date of Verdict/Settlement: 4/7/2005**

**Facts:**

Molestation: The Hueneme School District has agreed to pay \$1.5 million to settle a lawsuit filed by two sisters who were sexually molested by Jose Felix of Blackstock Middle School, who is

-serving a 15-year sentence for committing a lewd sex act on a child. Filed April 7, 2005 the settlement awards each sister \$750,000 in damages. The younger sister testified that she and Felix engaged in a sex act when he was her teacher. The older sister testified that she was his aide in 1998 and worked on the school yearbook in 1999 when he was yearbook adviser. She said Felix, a math teacher, started hugging her and the behavior escalated to kissing and fondling. Both sisters were 13 when they were molested. The younger victim told a teacher's assistant at the school that Felix had kissed her romantically, and either touched or attempted to touch her breasts. The assistant did not report the incident to anyone. It turned out that the assistant was having an affair with Felix at the time the child reported the abuse. By law, the assistant, who was about 50 years old, had to report the child abuse to authorities. She no longer works at the school.

**State: CA**  
**Public Entity: San Jose**                      **Type of Entity: City**  
**Verdict: \$ 1,000,000**  
**Date of Loss: 9/25/2001**  
**Date of Verdict/Settlement: 6/11/2005**  
**Facts:**

Excessive Force: The City of San Jose must pay \$1 million after a jury found that police officers were partly responsible for the death of a mentally ill man who died as he resisted arrest for a disturbance at a fast-food restaurant. Kim Smith, the widow of William Smith, sued the city for wrongful death after her husband died during a scuffle on Sept. 25, 2001 that started with a disturbance at a McDonald's restaurant and eventually involved eight officers. Kim Smith's attorney argued the officers ignored their training in handling Smith, 45, who police say weighed more than 300 pounds. This terrible tragedy raises awareness of the need for better police training in dealing with the mentally ill.

**State: CA**  
**Public Entity: Orange County Transportation Authority**                      **Type of Entity: Transit**  
**Settlement: \$ 2,500,000**  
**Date of Loss: 7/2/2004**  
**Date of Verdict/Settlement: 6/22/2005**  
**Facts:**

Day laborer Juan Carlos Delgado Arana, who was run over by an Orange County Transportation Authority bus as he walked in a crosswalk on July 2, 2004, settled a personal injury lawsuit with the OCTA for \$2.5 million. Doctors amputated the middle three fingers on Arana's left hand, leaving him with a lobster-style grip. He also suffered a crushed pelvis and a broken right ankle and internal injuries.

**State: CA**  
**Public Entity: Oxnard Union High School District:**                      **Type of Entity: School District**  
**Settlement: \$ 2,700,000**  
**Date of Loss: 5/1/2001**  
**Date of Verdict/Settlement: 8/1/2005**  
**Facts:**

Molestation: The Oxnard Union High School District agreed to pay \$2.7 million to settle a 2001 lawsuit involving eight students molested by former Camarillo High School teacher Chad Pridgen.

**State: CA**

**Public Entity: San Francisco**

**Type of Entity: City**

**Verdict: \$ 21,800,000**

**Date of Loss: 2/1/2003**

**Date of Verdict/Settlement: 9/1/2005**

**Facts:**

Wrongful Death: Elizabeth Dominguez, a 4-year-old San Franciscan, died instantly and violently when a city worker driving a Muni repair truck plowed her into a pizza parlor in the city's Mission District. At the time, her mother, her classmate, Monica Valencia, and Valencia's grandmother were walking the two young girls home from school. The jury held the city liable and awarded \$27.4 million in civil penalties for the family. Dominguez's parents received \$20.5 million for her death, for witnessing the death and the value of the relationship. Monica Valencia received \$3.5 million and her grandmother received \$3.3 million. However, the San Francisco city attorney's office successfully challenged the noneconomic awards as excessive, and a judge reduced the awards to the parents from \$20.5 million to \$15 million.

**State: CA**

**Public Entity: Oakland**

**Type of Entity: City**

**Verdict: \$ 2,802,800**

**Date of Loss: 4/5/2003**

**Date of Verdict/Settlement: 11/4/2005**

**Facts:**

The city of Oakland was found to be partly responsible for a car crash in 2003 that shattered a motorcyclist's leg. After a contentious trial and unsuccessful settlement negotiations, the jury awarded a \$5.72 million verdict and decided the city was 49% responsible for the April 5, 2003, accident that left Carl J. Navarra seriously injured and unable to return to work as a respiratory therapist. The jury laid 50% of the blame on Valerie Alexandrovich, whose Lexus turned into the path of Navarra's motorcycle at the intersection of Redwood Road and Atlas Avenue in the Oakland hills. The jury found Navarra 1 percent responsible.

**State: CA**

**Public Entity: Los Angeles County**

**Type of Entity: County**

**Settlement: \$ 700,000**

**Date of Loss: 3/1/2002**

**Date of Verdict/Settlement: 3/1/2006**

**Facts:**

Wrongful Death: A Superior court judge labeled Santiago Pineda, as a "Houdini in jail," after he murdered two people. Judge William Pounders sentenced Pineda to death for the murders. He also denied a defense motion for a new trial and refused to reduce the jury's death sentence recommendation to life in prison without the possibility of parole. Raul Tinajero Armenta, an inmate who testified against Pineda, was confronted in a cell at Men's Central Jail, choked, had his head put in the toilet, stomped on his neck and then strangled him. Armenta's mother, Silvia, sued the county, alleging wrongful death, and the Board of Supervisors approved a \$700,000 settlement in March 2006.

**State: CA**

**Public Entity: Kings County**

**Type of Entity: County**

**Settlement: \$ 4,000,000**

**Date of Loss: 2/2/2004**

**Date of Verdict/Settlement: 3/5/2007**

**Facts:**

Following a three-week trial in late March 2007, a Kings County jury in Hanford found Kings County and three Probation Department officials and staff negligent in the prevention of, and response to, Christian Rodriguez's suicide attempt in the county's juvenile boot camp program. The following week, the jury awarded Christian \$4.6 million in compensatory and punitive damages. Of the amount, \$160,000 was awarded in punitive damages, with the remainder given to offset medical bills and lost income. On February 2, 2004, Christian Rodriguez, then 16-years-old, hung himself in the school bathroom of the Kings County Probation Department's Juvenile Boot Camp. He sustained severe and permanent brain damage, and currently is confined to a wheelchair and unable to care for himself. His father, Miguel Rodriguez, filed the lawsuit in 2005 claiming that Kings County and several defendants were negligent to his health care needs while confined in both the detention center and boot camp programs. The jury split the liability into three portions between the boot camp director (45%), probation department chief (20%), and an officer (35%).

**State: CA**

**Public Entity: Santa Monica**

**Type of Entity: City**

**Settlement: \$ 1,300,000**

**Date of Loss: 8/29/2005**

**Date of Verdict/Settlement: 3/5/2007**

**Facts:**

On August 29, 2005 47-year-old Maria Carrera was struck by a Big Blue Bus while crossing the crosswalk on Ocean Avenue and Pico Boulevard. Carrera was a housekeeper on her way to work when she was hit and killed. Her husband, Oscar Saenz, filed a wrongful death lawsuit against the city of Santa Monica. The City Council approved a \$1.3 million settlement.

**State: CA**

**Public Entity: Los Angeles County**

**Type of Entity: County**

**Settlement: \$ 600,000**

**Date of Loss: 6/28/2005**

**Date of Verdict/Settlement: 3/11/2007**

**Facts:**

Los Angeles County has faced several lawsuits for accidents caused by lifeguards. 21-year-old Jesse Pace, a summer intern at UCLA Medical Center in 2005, filed suit against the county following an accident on 6/28/05 when a lifeguard ran him over at Santa Monica Beach. Pace lost his spleen, which resulted in a reduced immune system. The county awarded Pace a \$600,000 settlement.

**State: CA**

**Public Entity: Orange County**

**Type of Entity: County**

**Verdict: \$ 4,900,000**

**Date of Loss: 2/1/2000**

**Date of Verdict/Settlement: 3/29/2007**

**Facts:**

In Orange County a mother has been awarded \$4.9 million dollars in a case against CPS caseworkers and the Department of Social Services. The mother, Deanna Fogarty-Hardwick,



who lives in Seal Beach, claimed that CPS workers took her two young daughters in February 2000, and 'intentionally misinformed the court'. The children were 9 and 6 at the time. The kids were placed in Orangewood Children's Home for a month, then in a foster home for two months. After that they were placed with their father for two years. The parents now have joint custody. Caseworkers failed to inform the court that the children were emotionally distressed by being separated from their parents, and refused to place them with relatives, whose Kinship Care rights should have been honored. Jurors in this case wanted to send a message to social workers by awarding such a large amount of money to the mother.

**State: CA**

**Public Entity: East Bay Municipal Utility District Authority  
Utility**

**Type of Entity:**

**Settlement: \$ 8,000,000**

**Date of Loss: 11/10/2004**

**Date of Verdict/Settlement: 4/5/2007**

**Facts:**

Fatality: The Walnut Creek pipeline explosion in 2004 killed five men who were constructing a water main for the East Bay Municipal Utility District Authority. Matamoros Welding employee Israel Hernandez was one of the men killed. As companies involved in the explosion are settling lawsuits with the deceased's families, Hernandez' daughters stand in line to receive an \$8 million settlement from the EBMUD. He had a daughter in Mexico, Mariel Hernandez, now 19, and two other daughters, now 4 and 6, from a second relationship in California. Superior Court Judge David Flinn divided the total settlement by ordering that the local Hernandez daughters receive \$7.82 million and Mariel Hernandez receive \$180,000.

**State: CA**

**Public Entity: Los Angeles County MTA**

**Type of Entity: Transit**

**Verdict: \$ 13,820,000**

**Date of Loss: 6/25/2005**

**Date of Verdict/Settlement: 6/1/2007**

**Facts:**

Brain Damage: Los Angeles County Metropolitan Transportation Authority Verdict: \$13,820,000. On 6/25/05 Joseph Garcia was a 56-year old unemployed passenger on an LACMTA bus, when that bus struck a parked car transportation carrier. Mr. Garcia was thrown around the interior of the bus and suffered a subdural hematoma resulting in severe brain damage and hemiplegia of his left side. As a result, Mr. Garcia suffers from permanent injury to his brain, among other serious injuries. He now requires 24-hour attendant care for the rest of his life and the Court appointed a conservator to handle his financial affairs. The MTA's own rule states that a bus must maintain right-side clearance of 3-4 1/2 feet from parked vehicles.

**State: CA**

**Public Entity: Los Angeles Fire Department**

**Type of Entity: City**

**Verdict: \$ 3,750,000**

**Date of Loss: 1/1/2004**

**Date of Verdict/Settlement: 6/7/2007**

**Facts:**

In other cases against the LAFD, a jury awarded \$3.75 million to Capt. Frank Lima, who claimed he was retaliated against for not giving preferential treatment to a female trainee injured in a drill in 2004.

**State: CA**

**Public Entity: Los Angeles Fire Department**

**Type of Entity: City**

**Verdict: \$ 6,200,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 7/3/2007**

**Facts:**

Los Angeles firefighter who said she was harassed at work because she is African-American, a woman and a lesbian received a \$6.2 million jury award against the city. The jury ruled in favor of Brenda Lee, 39, of Mission Hills after a two-week trial in Los Angeles Superior Court. It's the largest payout in a string of recent settlements of cases alleging discrimination and retaliation against women and minorities within the Los Angeles Fire Department. A 12-year LAFD veteran, Lee alleged her superiors made derogatory comments about her and put her through grueling drills without proper safety precautions because of her race and sexual orientation. She also said her locker was ransacked. Most of the discrimination occurred from 2002 to 2004 while she was assigned to the Chatsworth station Lee filed her lawsuit in 2005 along with two former Los Angeles firefighters - both white - who also alleged they faced discrimination and were forced to retire partly because of their age. Lewis Steven Bressler, 68, claimed he was placed in a hostile work environment at Fire Station 96 in retaliation for blowing the whistle on Lee's mistreatment. He won a \$1.73 million jury award in April. The third plaintiff, Gary Mellinger, settled with the city for \$350,000 last year.

**State: CA**

**Public Entity: Los Angeles County**

**Type of Entity: County**

**Settlement: \$ 1,000,000**

**Date of Loss: 11/16/2005**

**Date of Verdict/Settlement: 7/4/2007**

**Facts:**

Wrongful Death: The family of Chadwick Shane Cochran filed a wrongful death lawsuit against Los Angeles County after the mentally ill inmate was beaten to death after deputies left him unsupervised with a group of gang members. The attack took place in the downtown Men's Central Jail in a room containing about 30 inmates. Deputies who could have been watching the inmates were instead searching cells in another part of the jail, looking for weapons and other contraband. Cochran died on November 16, 2005, after two gang members took turns jumping off a steel bench and stomping on the dying man's head as other inmates watched. The department was charged with leaving the inmates alone in a holding room for at least 20 minutes and for failing to give Cochran a new i.d. card when they transferred him out of the mental health unit. Other inmates mistakenly thought that Cochran's red mental health i.d. card meant that he was a police informant. In a settlement reached, Los Angeles County officials have tentatively agreed to pay \$1 million.

**State: CA**

**Public Entity: Buena Park**

**Type of Entity: City**

**Settlement: \$ 5,000,000**

**Date of Loss: 12/23/2004**

**Date of Verdict/Settlement: 7/9/2007**

**Facts:**

Excessive Force: Juan Herrera, 23, was shot and killed by veteran gang officer Ron Furtado, two days before Christmas in 2004. Furtado claimed that he shot out after he believed Herrera was leaning over as if to grab a weapon from under his car seat. However, Herrera was reported as sitting upright, according to testimony from a forensics expert. Court records stated that Herrera, and passenger Marcos Osoria, led officers on a vehicle pursuit December 23,

2004, after the two were pulled over for a traffic violation. Herrera hit the gas when police approached his window. The pursuit ended when Furtado's partner, officer Steve Yakubovsky, used their patrol car to pin the fleeing Oldsmobile in an alley near the intersection of Grand Avenue and Jackson Street. In a settlement reached, the city agreed to pay the Herrera family \$5 million as compensation.

**State: CA**

**Public Entity: State of California**

**Type of Entity: State**

**Settlement: \$ 1,200,000**

**Date of Loss: 1/10/2005**

**Date of Verdict/Settlement: 7/10/2007**

**Facts:**

Prison guard Manuel A. Gonzalez Jr. was stabbed to death by an inmate at the state prison in Chino on 2005 with a handmade weapon by inmate Jon Christopher Blaylock, who was serving a 75-year sentence for the attempted murder of a peace officer and had been incarcerated twice during the 1990s on attempted burglary convictions. After the incident, Gonzalez's family discovered that Blaylock had a history of mental health problems and had assaulted prison staff and other prisoners. The family alleged that prison system administrators contributed to Gonzalez's death by failing to issue him a stab-proof vest and by failing to properly house Blaylock. The prison had the vests, but they were being stored in a warehouse at the time of the stabbing. Gonzalez's family received \$1.2 million from the state in a settlement reached in federal court.

**State: CA**

**Public Entity: Cuyama Joint Union School District**

**Type of Entity: School District**

**Settlement: \$ 1,400,000**

**Date of Loss: 9/28/2006**

**Date of Verdict/Settlement: 8/29/2007**

**Facts:**

The family of Marie Crook who died of injuries suffered in a vehicle collision in 2006, filed wrongful death charges against the Cuyama Joint Union School District and Cuyama Valley High School Principal Donald Wilson, alleging wrongful death, personal injury, and property damage from the Sept. 28, 2006, crash that caused fatal injuries to Crook. Wilson, 49, was driving a Chrysler Town and Country minivan east on Highway 166, heading back from a school trip with Cuyama Valley High School students, who were following in a separate vehicle. Wilson's vehicle drifted into the westbound lane and collided head-on with a Chevrolet pickup truck driven by James Crook. The suit claimed that James Crook, 75, at the time, also suffered major injuries in the crash. The lawsuit sought damages for the death of Marie Crook and injuries suffered by James Crook. Plaintiffs in the matter included James Crook and the couple's 11 children. The school district settled for \$1.4 million.

**State: CA**

**Public Entity: San Dimas**

**Type of Entity: City**

**Settlement: \$ 9,000,000**

**Date of Loss: 4/8/2005**

**Date of Verdict/Settlement: 9/28/2007**

**Facts:**

Brain Damage: The family of Samantha Palumbo brought a lawsuit against the city of San Dimas after their teenage daughter suffered a severe brain injury. She was driving alone on April 8, 2005, lost control of her car and slammed into a city-built fence made of wooden logs. Parts of the fence pierced Samantha's car and her head, tearing away part of her brain.

Samantha Palumbo was a top student and beauty pageant winner before the accident; she has since battled to regain basic abilities. Now 18, she communicates with hand signals, largely uses a wheelchair and relies on 24-hour care provided by her parents. In a settlement reached, the family will receive \$9 million as part of a deal reached with the city.

**State: CA**

**Public Entity: Anaheim**

**Type of Entity: City**

**Settlement: \$ 2,500,000**

**Date of Loss: 6/14/2005**

**Date of Verdict/Settlement: 10/16/2007**

**Facts:**

Jose Munoz, an Anaheim man, brought charges against the city, alleging that he was run over by a police car. His suit claimed that he sustained major internal injuries after a police car driven by Officer Eddie Ruiz rammed into and then drove over him while he was on a sidewalk. Records stated that Munoz had stopped fleeing, put his hands in the air and had his back to the car when he was hit on June 14, 2005. As part of a settlement reached, the city agreed to pay at least \$2.5 million to resolve the suit. City officials stated that a final agreement has not been signed because the city has yet to determine how much it will pay for medical bills, which exceed \$3.5 million. Munoz is now in the custody of the state Department of Corrections for a parole violation for a previous car-theft conviction.

**State: CA**

**Public Entity: Ventura County**

**Type of Entity: County**

**Settlement: \$ 12,500,000**

**Date of Loss: 9/16/2006**

**Date of Verdict/Settlement: 11/3/2007**

**Facts:**

Wrongful Death: The family of Glenn Garvin, a Thousand Oaks dental surgeon, brought a wrongful death lawsuit against Ventura County, after the 49-year-old endodontist was killed in 2006 by an elderly motorist.

**State: CA**

**Public Entity: Oxnard**

**Type of Entity: City**

**Settlement: \$ 2,750,000**

**Date of Loss: 6/12/2006**

**Date of Verdict/Settlement: 11/22/2007**

**Facts:**

Wrongful Death: The family of Cindy Conolly, 49, of Sioux City, Iowa, brought a wrongful death lawsuit against the city of Oxnard, after she was hit by a police sports utility vehicle on June 12, 2006, while sunbathing on Mandalay Beach in Oxnard, CA. City police officers claimed they were unaware that they had run over the woman and they resumed regular street patrol until a witness called 911. Cindy Conolly had attended her son Ronnie Bassett's Oceanside wedding the previous day at a beachside resort. City officials had said in 2006 that the city accepted full responsibility for the incident, and agreed with the victim's family, that the death could have been wholly prevented. Settled for \$2.75 million on 11/22/2007.

**State: CA**

**Public Entity: Dana Point**

**Type of Entity: City**

**Settlement: \$ 50,000,000**

**Date of Loss: 4/8/2006**

**Date of Verdict/Settlement: 11/27/2007**

**Facts:**

Quadriplegia (2) Alleged dangerous condition of public property. Two women, Carol Daniel, 42, and Stacy Neria, 35, both mothers of three who live in San Clemente, were left permanently disabled quadriplegics after being struck by a car on April 8, 2006. Driver was jailed and had no coverage. Settled for \$50 million.

**State: CA**

**Public Entity: Big Oak Flat-Groveland Unified School District**

**Type of Entity:  
School District**

**Settlement: \$ 510,000**

**Date of Loss: 11/1/2004**

**Date of Verdict/Settlement: 11/27/2007**

**Facts:**

Molestation: A family whose son attended a Tenaya Elementary School, brought a lawsuit against the Big Oak Flat-Groveland Unified School District, alleging that the child was molested in the school's bathroom. Sources stated that the family, the plaintiff in the case, filed its suit April 27, 2005 against the district, the district's then-superintendent John Triolo, former Tenaya Elementary School principal Don Moore, and the alleged perpetrators and their families. They claimed that on two occasions in early November 2004, two of the boy's classmates molested him. He was in second grade at the time. Two older boys held the bathroom door shut while the incident took place. The suit accused the district of negligence in the matter. The plaintiff contends that district officials knew that the children suspected in the attacks had a propensity to be violent. It claimed that the bathroom lacked supervision despite previous complaints. On 11/27/07 as part of a settlement reached, the family agreed to accept a \$510,000 payout from the district to resolve the lawsuit.

**State: CA**

**Public Entity: Sacramento County**

**Type of Entity: County**

**Settlement: \$ 1,000,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 11/28/2007**

**Facts:**

As part of a settlement the City of Sacramento agreed to pay \$1 million to the families of three inmates who committed suicide at the Sacramento County Main Jail. Sources claim that the settlement covers inmate hangings that occurred in 2002 and 2003. As part of the agreement, in response to the rising suicide rate, the department made structural changes in the cells, provided material to inmates less readily used for suicides, and provided training to staff regarding suicide risks and typical signs or manifestations. The families of the inmates brought wrongful death lawsuits against the city. Family members claimed the deaths resulted from inadequate training and supervision of sheriff's deputies who staff the jail, flawed policies and procedures, and negligence, indifference and malpractice by jail personnel. Records show that there were seven suicides at the jail in 2002, six by hanging and one by drug overdose.

**State: CA**

**Public Entity: Monterey-Salinas Transit**

**Type of Entity: Transit**

**Settlement: \$ 3,000,000**

**Date of Loss: 8/2/2005**

**Date of Verdict/Settlement: 11/29/2007**

**Facts:**

Guillermina Valencia, a Watsonville woman, brought a lawsuit against Monterey-Salinas Transit, after she was hit by a Monterey-Salinas Transit bus. Sources claim that Valencia was hit by a Monterey-Salinas Transit bus about 6:45 p.m. on Aug. 2, 2005, on the opposite side of the intersection. She was 57 at the time. As a result of the accident, Valencia suffered head injuries, including skull fractures and permanent brain damage. Though Monterey-Salinas Transit did not admit any liability, it agreed to settle the personal injury claim with a \$3 million payout.

**State: CA**

**Public Entity: Half Moon Bay**

**Type of Entity: City**

**Judgment: \$ 18,000,000**

**Date of Loss: 1/1/1993**

**Date of Verdict/Settlement: 12/1/2007**

**Facts:**

Inverse Condemnation. City's accidental creation of wetlands leads to finding of physical taking and a \$36.8 million Judgment against the City. Attorneys for Keenan, who won a \$36.8 million judgment against Half Moon Bay, have filed for legal fees and other costs that add \$3.5 million to the bill. Together with a previously granted request for about \$1.3 million in interest, the Beachwood decision stood to cost Half Moon Bay \$41.6 million. The City Council negotiated an \$18 million settlement with the developer.

**State: CA**

**Public Entity: Orange County Transportation Authority**

**Type of Entity: Transit**

**Settlement: \$ 7,250,000**

**Date of Loss: 3/2/2010**

**Date of Verdict/Settlement: 12/14/2007**

**Facts:**

OCTA reached a \$7.25 million settlement with a man who suffered leg injuries when he attempted to board a bus that had pulled away from the bus stop. Ronald Cunningham, 52, who had a blood-alcohol level of .27, was injured when he fell under a bus and was run over while attempting to board it. His BAC was more than three times legal limit of .08 for drivers. Cunningham, formerly a heating and air conditioning specialist, was already on full-time disability at the time of the accident. He suffered a degloving injury to his left leg and required a colostomy.

**State: CA**

**Public Entity: Westminster**

**Type of Entity: City**

**Settlement: \$ 950,000**

**Date of Loss:**

**Date of Verdict/Settlement: 12/19/2007**

**Facts:**

Wrongful Death: The family of 30-year-old Hoang Tan Bui brought a wrongful death lawsuit against the city, alleging that the hit-and-run suspect was shot and later accidentally run over by an officer during a pursuit. Charles Shinn III, a 14-year department veteran, was trying to question Bui about a hit-and-run incident at Newland Street and Bolsa Avenue. When Bui tried

to drive away, Shinn fired into the car, hitting Bui in the shoulder. Bui then drove about a mile, left his car and began running when Shinn clipped Bui at 12 mph with his patrol car. Bui suffered head injuries and died at the scene, pinned under the car and against a tree. As part of a settlement reached, Bui's wife, who filed a \$10 million federal civil rights lawsuit against the city and police department, agreed to accept the \$950,000 payout from the city. Records show that she had previously turned down a \$750,000 settlement offer.

**State: CA**

**Public Entity: Anaheim**

**Type of Entity: City**

**Settlement: \$ 700,000**

**Date of Loss: 4/18/2007**

**Date of Verdict/Settlement: 2/27/2008**

**Facts:**

Falling Tree: A 50-foot-tall tree blew over on 4/18/07 and smashed Michael Gandy's van, causing fatal injuries on the man's 49th birthday. The suit claimed that the city failed to trim tree tops, but cut the roots that made the tree unstable in fierce Santa Ana winds. Gandy had just finished his day as a church maintenance worker when he parked his white Ford Aerostar van on the tree lined street to work on writing a book on church history, only to suffer serious injuries when the tree fell, killing him. The City agreed to pay \$700,000 to Gandy's mother and sister, who blamed the city's faulty tree trimming practices for Gandy's death.

**State: CA**

**Public Entity: Santa Cruz County**

**Type of Entity: County**

**Settlement: \$ 3,000,000**

**Date of Loss: 9/17/2005**

**Date of Verdict/Settlement: 2/28/2008**

**Facts:**

Wrongful Death: The family of David Cross brought a wrongful death lawsuit against the Santa Cruz County Jail. The suit claimed that the 44-year-old man was jailed after being arrested Sep. 17, 2005 on charges of violating a restraining order that required him to stay away from a home he shared with his girlfriend. While in jail, Cross's emotional condition deteriorated and he began banging his head against the cell door. The jail staff placed him in a restraining chair and Cross died minutes later. The family stated that Cross, while being physically restrained, screamed "I can't breathe" and "I'm going to die" and the jail staff failed to respond for several minutes. Sixteen minutes later, a nurse found that he had no pulse. The incident was videotaped. As part of a settlement reached with the County, the family received a \$3 million settlement to resolve the wrongful death suit.

**State: CA**

**Public Entity: State of California**

**Type of Entity: State**

**Settlement: \$ 9,000,000**

**Date of Loss: 3/3/2006**

**Date of Verdict/Settlement: 3/6/2008**

**Facts:**

Amputation: The state has agreed to pay \$9 million to a teenage girl who lost both legs after crashing her car into a broken guardrail along Interstate 10 on March 3, 2006. Priscilla Contreras was 16 when a jagged metal railing ripped through the driver's-side door and rendered the high school senior a double amputee. The protective barrier had been damaged in an accident the previous day and was awaiting repair. Contreras was driving home on Interstate 10 in Los Angeles when she lost control of her car and hit the railing. The cause of the accident was never established. The Contreras family filed a law suit against the state and

Caltrans, blaming the agency for creating a dangerous condition, failing to repair it, and failure to warn drivers of the dangerous situation. In addition to below knee amputations of both legs, she sustained a fractured pelvis, back injuries, neuropathy, TBI, severe emotional distress, and PTSD. The case settled on the morning of trial.

**State: CA**

**Public Entity: Riverside County**

**Type of Entity: County**

**Settlement: \$ 800,000**

**Date of Loss: 10/8/2006**

**Date of Verdict/Settlement: 3/6/2008**

**Facts:**

Wrongful Death: The family of Douglas Steven Cloud brought a wrongful death lawsuit against the city of Riverside, CA after Cloud, 28, was shot and killed by Riverside Police Department officers on October 8, 2006 following a high speed pursuit.

**State: CA**

**Public Entity: Hanford**

**Type of Entity: City**

**Settlement: \$ 15,000,000**

**Date of Loss: 5/31/2005**

**Date of Verdict/Settlement: 5/1/2008**

**Facts:**

Brain Damage: Christopher Chan (14) was riding his bicycle when he was hit by an automobile at the intersection of 11th Avenue and Pepper Drive on May 31, 2005. Chan now has no short-term memory, has the verbal ability of a 6-year-old, focuses on simple tasks for only 15 minutes at a time and needs an attendant to help him with his everyday physical needs. Jupiter Chan stated that the ill fated intersection was hazardous to school children crossing to and from school due to its physical makeup, no effective controls and no signage or crossing guard. He alleged that the municipality knew the street intersection was dangerous, agreed to fix the dangerous condition and then did not act to correct the problem. The intersection posed a hazard to school children who cross the intersection twice daily on their way to and from school. Hanford officials stated that the city was aware of these dangerous conditions but did not correct them. Settled for \$15 million.

**State: CA**

**Public Entity: Santa Monica**

**Type of Entity: City**

**Settlement: \$ 21,000,000**

**Date of Loss: 7/16/2003**

**Date of Verdict/Settlement: 5/21/2008**

**Facts:**

Fatalities (10): On 7/16/03 an 86-year old driver drove his car through a wooden barricade and plowed through pedestrians at the city's popular open-air market. 10 people were killed and more than 60 others were injured. Victims and relatives filed suit against the City of Santa Monica and Bayside District Corp., organizers of the farmers' market, alleging that the accident could have been prevented by the installation of metal barriers. The City paid a total of \$21 million in settlements, eliminating the risks and difficulties of trial.



**State: CA**

**Public Entity: West Hollywood**

**Type of Entity: City**

**Settlement: \$ 3,600,000**

**Date of Loss: 10/26/2004**

**Date of Verdict/Settlement: 6/2/2008**

**Facts:**

On Oct. 26, 2004, at about 11 p.m., plaintiffs Elias Pulido, 26, and Robert Greene, 25, left a club and walked to the intersection of Sunset Boulevard and North Wetherly Drive in West Hollywood. Settled on 6/2/08 for \$3,600,000.

**State: CA**

**Public Entity: Coronado**

**Type of Entity: City**

**Settlement: \$ 5,500,000**

**Date of Loss: 9/1/2006**

**Date of Verdict/Settlement: 7/2/2008**

**Facts:**

Excessive Force: A former member of the San Diego Chargers settled a lawsuit against the city of Coronado and a police officer. In September of 2006, 23-year-old off-duty policeman Aaron Mansker followed athlete Steve Foley's vehicle because he believed Mr. Foley was driving while intoxicated. The officer trailed Mr. Foley from San Diego to Poway, where he then instructed Mr. Foley to pull over and get out of his vehicle. Mr. Mansker said it appeared that Mr. Foley was taking out a weapon as he exited his vehicle, at which point the off-duty policeman shot Mr. Foley in the back of his knee and his hip. Mr. Foley did not have a weapon. Mr. Mansker, who was dressed in casual clothing and driving his personal vehicle, claimed that he informed Mr. Foley that he was a police officer; however, he never presented his badge. Mr. Foley's injuries required 12 surgeries, and he still suffers painful nerve damage and has trouble walking. He was forced to end his football career. He filed a civil lawsuit against the city of Coronado and Mr. Mansker because he believed procedural violations had been made. The lawsuit was settled for \$5.5 million.

**State: CA**

**Public Entity: Santa Rosa**

**Type of Entity: City**

**Settlement: \$ 550,000**

**Date of Loss: 12/30/2005**

**Date of Verdict/Settlement: 7/9/2008**

**Facts:**

On 12/30 05, a retired nurse was standing in her kitchen stirring a pot of gumbo. It took mere moments for her to be swept off her feet by a massive mudslide that deposited her in a laundry room and trapped her under debris. She received a \$550,000 personal injury settlement from the city of Santa Rosa, California, based on her claim that the city's modifications to its storm drain system caused the excess water to flow into her home. The Santa Rose Press Democrat reports that \$104 million in property damage was caused by the mudslides, but that the 58-year-old woman was the only person with serious injuries. She suffered three leg fractures in the incident, and has undergone 10 surgeries to date. Her home has since been demolished.

**State: CA**  
**Public Entity: Sacramento**                      **Type of Entity: City**  
**Settlement: \$ 10,000,000**  
**Date of Loss: 12/10/2006**  
**Date of Verdict/Settlement: 8/31/2008**

**Facts:**

Police ride-along accident: 34-year-old Brian Jackson was on a ride-along with a Sacramento police officer and were involved in a violent crash. Jeremy Rattcliffe lost control of his patrol car and collided with a utility pole. Rattcliffe was speeding up to catch up to a reckless driver, but had not activated his emergency lights or siren. Another car pulled in front of the police vehicle, forcing the officer to swerve. Brian Jackson sustained internal injuries and brain trauma. Settled for \$10 million.

**State: CA**  
**Public Entity: San Diego**                      **Type of Entity: City**  
**Settlement: \$ 8,000,000**  
**Date of Loss: 1/1/2006**  
**Date of Verdict/Settlement: 9/16/2008**

**Facts:**

Excessive Force: A Superior Court jury ordered the city of San Diego to pay \$8 million in damages to Pablo Gomez, who fell into a coma after allegedly being knocked to the ground by a San Diego police officer during an altercation in January of 2006. Gomez suffered a five-inch skull fracture and fell into a coma for about a month after the incident. Although the courtroom found that Gomez suffered \$11.5 million in damages, the panel found both the city and Gomez negligent.

**State: CA**  
**Public Entity: BART**                      **Type of Entity: Transit**  
**Settlement: \$ 1,500,000**  
**Date of Loss: 1/1/2010**  
**Date of Verdict/Settlement: 1/1/2009**

**Facts:**

Excessive Force: More than a year after Oscar Grant III was fatally shot by a BART police officer, BART announced that it had agreed to pay \$1.5 million to the mother of Oscar Grant's young daughter, Tatiana. The settlement is from a \$50 million lawsuit filed against the transit agency. "No matter what anyone's opinion of the case may be, the sad fact remains: This incident has left Tatiana without a father," James Fang, the BART board president, said in a statement. [The Oakland Tribune, Oakland Local]

**State: CA**  
**Public Entity: Unnamed California School**                      **Type of Entity: School District**  
**Settlement: \$ 18,400,000**  
**Date of Loss: 3/1/2007**  
**Date of Verdict/Settlement: 2/19/2009**

**Facts:**

Quadriplegia: On March 1, 2007, plaintiff Roque Renteria, 14, a ninth-grade student, was told to run laps with the rest of his high school track team during an afternoon practice. About 10 students and he gathered on the field, and a senior student began wrestling with Roque. As Roque and the senior wrestled, other students stood nearby, laughing and yelling at the horseplay. Eventually, the senior lifted Roque off the ground, pointed his head toward the ground and drove his head into the turf. The incident rendered Roque a C5-6 quadriplegic.

Roque, by and through his guardian ad litem Eduvina Renteria, sued the school district for negligent supervision, alleging that the school officials failed to intervene with the fight. The case eventually settled for \$18.4 Million. Of the recovery, \$11.4 million went to a single-premium, tax-free annuity, while \$136,000 went to hospital and medical bills.

**State: CA**

**Public Entity: California State University**

**Type of Entity: School District**

**Settlement: \$ 20,000,000**

**Date of Loss: 2/20/2007**

**Date of Verdict/Settlement: 2/25/2009**

**Facts:**

High Voltage Electrical Injury: William Jones, an employee of High Voltage Electrical subcontractor, was working on a 12,000 volt electrical sub-panel at the California State Polytechnic University in Pomona. A University employee energized the electrical sub-panel, causing 3rd degree electrical burns to Jones. Jones' left arm was amputated at the shoulder and he underwent multiple surgeries. Medical bills exceeded \$2M. OSHA citations were issued to the University. The claim settled at mediation for \$20,000,000.

**State: CA**

**Public Entity: Los Angeles County**

**Type of Entity: County**

**Settlement: \$ 3,000,000**

**Date of Loss: 5/9/2007**

**Date of Verdict/Settlement: 4/12/2009**

**Facts:**

L.A.County supervisors agreed to pay \$3 million to settle a lawsuit brought by the children of Edith Rodriguez who died after writhing in pain for 45 minutes on the waiting-room floor of Martin Luther King Jr.-Harbor Medical Center. A triage nurse dismissed her complaints in the early morning of 5/9/2007. Videotape showed a janitor mopping around Rodriguez and other staff walking past. Authorities released two 911 calls of people pleading for help for Rodriguez. Each had their concerns dismissed by dispatchers. Her three children alleged civil-rights violations and medical malpractice. They initially requested \$45 million for every minute Rodriguez was denied treatment. Rodriguez's boyfriend accompanied her to the hospital and placed one of the 911 calls for help. He is poised to receive an additional \$250,000 settlement. Rodriguez's death helped to precipitate the closure of the long-troubled hospital after federal regulators determined that staffers failed to deliver a minimum standard of care. Rodriguez, 43, suffered a perforated bowel.

**State: CA**

**Public Entity: Santa Clara County**

**Type of Entity: County**

**Settlement: \$ 2,300,000**

**Date of Loss: 3/9/2008**

**Date of Verdict/Settlement: 7/5/2009**

**Facts:**

Santa Clara County has agreed to pay \$2,300,000 to the parents of one of the bicyclists killed when a former sheriff's deputy drove his patrol car into a group of cyclists. The payment settles a lawsuit filed against both the county and the deputy by the family of cyclist Matt Peterson, 29, who was killed in the crash. Negotiations are still ongoing in civil suits filed by the family of the other cyclist who died, Kristy Gough, 30, and with Christopher Knapp, 21, who suffered two broken limbs but survived. The former deputy said he fell asleep at the wheel on March 9, 2008, crossed a double yellow line and plowed into the group of cyclists on a training ride. Before he became a deputy, he was convicted in 2001 for his involvement in a speed contest in

Los Angeles County. County officials said the settlement was released more than three months after it was signed because the county was still in negotiations with the other families and did not want the agreement to influence the negotiations.

**State: CA**

**Public Entity: State of California**

**Type of Entity: State**

**Settlement: \$ 10,000,000**

**Date of Loss: 5/1/2007**

**Date of Verdict/Settlement: 9/24/2009**

**Facts:**

**Brain Damage:** A Santa Clara, Calif. jury awarded \$49 million in damages to Drew Bianchi, a 21-year old college student who was on his way to a camping trip when two trucks collided and one struck the car he was riding in, causing him traumatic brain injuries. His injuries necessitate round-the-clock medical care. The Bianchi vehicle was struck by a Peterbilt truck driven by Samuel Bimbela. The jury awarded \$3.4 million in past medical expenses, \$27.6 million in future medical expenses, \$4.5 million for future lost wages, and \$13.5 million in general damages. The defendants are jointly and severally liable for the special damages and severally liable for the general damages. Following a five-week trial, the jury found that Bimbela was 60 percent at fault, Gordon Trucking and its truck driver, Michael Demma, were 35 percent at fault, and the state of California was 5 percent at fault. The state settled with the plaintiff for \$10 million at a settlement conference in July, 2009.

**State: CA**

**Public Entity: Unidentified School District**

**Type of Entity: School District**

**Settlement: \$ 14,000,000**

**Date of Loss:**

**Date of Verdict/Settlement: 10/6/2009**

**Facts:**

**Brain Damage:** Injured Teen Awarded \$14 Million. A 13-year old boy who suffered an ischemic stroke, and resulting and resulting aphasia and behavioral problems, has won his lawsuit against the school district and the gym teacher, alleging that they were responsible for his injury and resulting health issues. The boy was injured during a game of dodgeball when he was hit in the head by a volleyball thrown by a fellow student from some 40 feet away. The boy fell to the floor and hit his head. The suit claimed that lighter foam centered balls should have been used, and that the gym teacher in charge should not have been supervising various activities simultaneously. The settlement is a structured so the plaintiff will recover an estimated \$96 million throughout his life.

**State: CA**

**Public Entity: South Gate**

**Type of Entity: City**

**Settlement: \$ 18,000,000**

**Date of Loss: 7/1/2002**

**Date of Verdict/Settlement: 10/7/2009**

**Facts:**

**Discrimination:** The city of South Gate has paid out \$18 million to settle lawsuits filed by a group of 16 officers who said they faced racially-motivated discrimination, harassment and retaliation in the aftermath of the ouster of a Latino police official in 2002. The settlements, the last of which was finalized, include the claims of four officers who won a \$10.4-million jury verdict in 2007 and former Assistant Chief Mark Van Holt, who was awarded \$4.2 million by a jury in a retaliation suit against the city. Those verdicts were challenged on appeal by the city and settled for undisclosed amounts that are part of the \$18 million.

**State: CA**

**Public Entity: University of California**

**Type of Entity: State**

**Settlement: \$ 6,000,000**

**Date of Loss: 12/1/2004**

**Date of Verdict/Settlement: 10/16/2009**

**Facts:**

A 4-year-old boy with cerebral palsy received a judge approved \$5.75 million settlement on his behalf. Cannon Hoops got \$1.75 million up front and another \$4 million in annuities that are expected to pay for his medical and assistive care as well as future lost earnings over the rest of his life. The money was awarded by the University of California Board of Regents as a result of injuries the boy suffered when he was born in the UC Davis Medical Center. His parents also have been awarded \$250,000 to waive any future wrongful death claims in the event their only son does not survive. The total of \$6 million is the largest amount the university has ever agreed to pay to settle a medical malpractice case. Cannon Hoops suffered "severe and permanent" neurological injuries as a result of a lack of oxygen to his brain during his Dec. 1, 2004 birth at the medical center.

**State: CA**

**Public Entity: Metrolink**

**Type of Entity: Transit**

**Settlement: \$ 30,000,000**

**Date of Loss: 1/26/2005**

**Date of Verdict/Settlement: 10/20/2009**

**Facts:**

Multiple Fatalities & Injuries: 10/15/09: Metrolink has spent \$30 million to settle most of the lawsuits arising from the 2005 Glendale train crash that killed 11 and injured about 180. Among those settlements are two injury cases, one for \$5 million and the other for \$3.8 million, and two wrongful death cases in which the heirs will receive \$3.5 million for each claim. One of those cases involves payments to the family of a sheriff's deputy killed in the crash. Most of the settlements were far more modest, with one person receiving \$1,000 and many settling for less than \$50,000. All but about a dozen of the approximately 150 claims and lawsuits filed against Metrolink have been settled, and the remaining cases are expected to be resolved in the next month. The Jan. 26, 2005, collision, which was the deadliest in its history until last year's Chatsworth crash in which 25 people were killed and 135 injured.

**State: CA**

**Public Entity: Oakland**

**Type of Entity: City**

**Settlement: \$ 1,500,000**

**Date of Loss: 9/1/2007**

**Date of Verdict/Settlement: 11/9/2009**

**Facts:**

Excessive Force: The City of Oakland agreed to pay \$1.5 million to the family of 20-year old Gary King Jr, who was tasered and shot to death by Oakland Police Sgt. Patrick Gonzales. According to eyewitness the police officer grabbed King by his hair, pulled him into a headlock and punched him repeatedly before tasing him. The witnesses also contended that the young man was not holding anything when he was shot. According to the police officer he stopped King because he thought the young man looked like a suspect in a homicide that had taken place a month earlier.

**State: CA**  
**Public Entity: Riverside**                      **Type of Entity: City**  
**Settlement: \$ 550,000**  
**Date of Loss:**  
**Date of Verdict/Settlement: 6/8/2010**

**Facts:**

Discrimination: Two Riverside police lieutenants who sued the city, alleging they were passed over for promotions as retaliation for union activity, are slated to receive a combined \$550,000 in damages as well as retirement at top captain's wage, according to a settlement agreement. Tim Bacon and Darryl Hurt, both 49, have been on paid leave since the tentative settlement was reached in April. Details of the settlement agreement were released by the city attorney's office on Monday at the request of The Press-Enterprise. Both men had accused city leaders, including council members, administrators and the former police chief, of various wrongdoings centered on efforts to punish them for their work with the police management union. They said they were passed over for captain's promotions after failing to support a proposal to make some positions "at will" and failing to back favored council candidates. Hurt said he received a punitive reassignment. The city denied the allegations, but in settlement talks agreed to pay Hurt \$300,000 and Bacon \$250,000.

**State: CA**  
**Public Entity: Fresno**                      **Type of Entity: City**  
**Settlement: \$ 3,350,000**  
**Date of Loss: 10/30/2005**  
**Date of Verdict/Settlement: 6/12/2010**

**Facts:**

Discrimination: The city of Fresno, CA reached a \$3.35 million settlement with a woman who claims she was forced out of the Fresno Fire Department's training academy because of her gender. From October 2005 until December 2005, plaintiff Michelle Maher, 39, was the only female participant in the Fresno Fire Department's training academy. Reportedly, she was forced out of the program. Maher sued the City of Fresno, alleging civil rights violations, hostile work environment and gender discrimination. The plaintiff claimed that the fire department held her to a higher standard than male recruits, adding that a superior repeatedly questioned her about her divorce and life as a single mother. Reportedly, the fire department gave male recruits who received scores below 80 percent the opportunity to improve their scores, but did not allow her to do the same. Allegedly, Maher, who competes in mixed martial arts competitions, was in good physical health. As part of the settlement, the city will dismiss its appeal.

**State: CA**  
**Public Entity: Orange County**                      **Type of Entity: County**  
**Settlement: \$ 750,000**  
**Date of Loss: 3/17/2006**  
**Date of Verdict/Settlement: 6/22/2010**

**Facts:**

Excessive Force: Plaintiff Matthew Fleuret, 22, a construction worker, was arrested during a bar brawl in San Clemente. Shortly after the brawl began, a deputy sheriff on a routine bar check looked in the window and discovered the fight. Fleuret was charged and released within 48 hours. Fleuret sued Orange County, the Orange County Sheriff's Department and 15 deputy sheriffs involved at varying stages of the arrest, alleging excessive force. He claimed that while the police attempted to break up the fight, he was sprayed with pepper spray and hit with a baton in the back of his head, being knee dropped and smashing his face to the floor. He also contended that in the holding cell at the jail, he was handcuffed, slammed to the floor, pinned

down by an officer's knee and repeatedly jolted with a stun gun at least 11 times over a period of 13 minutes.

**State: CA**

**Public Entity: Long Beach**

**Type of Entity: City**

**Settlement: \$ 7,950,000**

**Date of Loss: 1/1/1980**

**Date of Verdict/Settlement: 8/12/2010**

**Facts:**

Wrongful Conviction: 8-12-10 A man who spent 24 years imprisoned for a murder he did not commit will receive \$7.95 million from the City of Long Beach after he sued the police there for withholding evidence in his 1980 trial. In 2004 Thomas Lee Goldstein freed from prison after the Los Angeles district attorney dismissed all charges against him in the 1979 killing of a Long Beach drug dealer. The move was based on new evidence that the police had coached the only witness in the case by pointing Mr. Goldstein out in a photo spread as a suspect who had failed a polygraph test. Lawyers also presented evidence that the police had offered Eddy Fink, a heroin addict and police informant, leniency in a grand theft conviction if he testified against Mr. Goldstein. City Attorney Monte Machit said. "This is a lot of money, but in light of the potential verdict," which could have been \$24 million to \$30 million and lawyers' fees, he said, "we thought it better to get it resolved."

**State: CA**

**Public Entity: San Juan Capistrano**

**Type of Entity: City**

**Verdict: \$ 6,700,000**

**Date of Loss: 6/27/1905**

**Date of Verdict/Settlement: 8/25/2010**

**Facts:**

8-25-10: A trial court judge refused to toss out a \$6.7 million judgment against the city ordered in compensation to a family trust for delays caused in building a proposed housing development. The City Council authorized an appeal in June. Before that could happen, the city filed two motions before the trial court, both seeking to toss out the jury verdict and either grant a new trial or for the court to issue its own judgment notwithstanding the jury verdict. In 2005, the city approved construction of Belladonna Estates, a 31-lot development on nearly 17 acres with custom lots ranging from 13,000 to 32,000 square feet on the Scalzo Family Trust property. But San Juan Capistrano imposed 121 development conditions "including a condition that the Scalzo Trust dedicate property to the city to widen an existing city public drainage easement." The trust objected to the requirement and sued the city. The judge found the city liable, and then the case was tried before a jury for a damages award. With her ruling on Thursday, Andler affirmed her earlier ruling and the jury's verdict in the case. The case next would have to be appealed to the 4th District Court of Appeal in Santa Ana.

**State: CA**

**Public Entity: Azusa**

**Type of Entity: City**

**Verdict: \$ 1,500,000**

**Date of Loss: 2/1/2008**

**Date of Verdict/Settlement: 9/10/2010**

**Facts:**

Dangerous Condition: An Azusa Pacific University (APU) student won a \$1.5 million judgment against the City of Azusa, California. The judgment stems from a dangerous condition of public property and motor vehicle negligence lawsuit that was filed after a February 2008 incident in

which Julie Farris, a student at APU, suffered a severe, permanent brain injury when she was struck by a trolley that was owned by the university while riding her bicycle to class. Julie, the plaintiff in this case, originally brought the action against the City of Azusa, APU and the driver of the university's trolley. The judgment against the City of Azusa was recorded on September 10, 2010 in the Los Angeles County Superior Court, case # KC055075.

**State: CA**

**Public Entity: Oakland**

**Type of Entity: City**

**Settlement: \$ 1,200,000**

**Date of Loss: 10/31/2008**

**Date of Verdict/Settlement: 10/7/2010**

**Facts:**

Excessive Force: The city of Oakland has agreed to pay \$1.2 million to settle a lawsuit filed by a woman who suffered third-degree burns when a "flash-bang" grenade thrown by a police officer on the city's SWAT team exploded near her during a raid. Nicole White suffered burns over 11 percent of her body and was permanently disfigured as a result of the incident, which happened during a search of the home she was visiting in East Oakland on Oct. 31, 2008. White, now 31, accused police of needlessly using an "extreme level of force" when they lobbed the grenade into the house. Without admitting wrongdoing, the City Council voted unanimously in closed session to approve the settlement.

**State: CA**

**Public Entity: Oakland**

**Type of Entity: City**

**Settlement: \$ 500,000**

**Date of Loss: 3/19/2008**

**Date of Verdict/Settlement: 10/19/2010**

**Facts:**

The city of Oakland agreed Tuesday to pay \$500,000 to settle a federal civil rights suit filed by the parents of a 15-year-old boy who was shot and killed by three gang-unit officers in 2008. Jose Luis Buenrostro was killed March 19, 2008 in East Oakland. Police have said several gang-unit officers shot Buenrostro when he pulled a sawed-off rifle from his sweatpants and pointed it at them. But in a lawsuit filed in U.S. District Court in San Francisco, Jose and Maria Buenrostro said Sgt. Randy Brandwood and Officers Eric Milina and Robert Roche drove up to their son in an unmarked car, stopped and shot him without cause. Roche has been involved in at least two other fatal police shootings. Witnesses said he was putting his hands up when he was shot.

**State: CA**

**Public Entity: Oakland**

**Type of Entity: City**

**Settlement: \$ 500,000**

**Date of Loss: 3/19/2008**

**Date of Verdict/Settlement: 10/19/2010**

**Facts:**

The city of Oakland agreed to pay \$500,000 to settle a federal civil rights suit filed by the parents of a 15-year-old boy who was shot and killed by three gang-unit officers. Jose Luis Buenrostro was killed March 19, 2008 in East Oakland. Several gang-unit officers shot Buenrostro when he pulled a sawed-off rifle from his sweatpants and pointed it at them. But in a lawsuit filed in U.S. District Court in San Francisco, Jose and Maria Buenrostro said Sgt. Randy Brandwood and Officers Eric Milina and Robert Roche drove up to their son in an unmarked car, stopped and shot him without cause. Roche has been involved in at least two other fatal police shootings. Witnesses said he was putting his hands up when he was shot.



Within a week of the shooting, police took the unusual step of showing a picture of the rifle that the boy was carrying. They said the youth had ties to a street gang.

**State: CA**

**Public Entity: State of California**

**Type of Entity: State**

**Verdict: \$ 5,000,000**

**Date of Loss: 3/1/2806**

**Date of Verdict/Settlement: 11/3/2010**

**Facts:**

Brain Damage: :Girl Struck by Car Awarded \$10 Million. A teenage girl who was struck by a car while crossing an intersection in 2006 and has been in a coma ever since, was awarded over \$10 million by a jury. Emily Liou was 17 at the time of the accident, and suffered massive brain damage as a result. She has never regained consciousness. Liou was struck on El Camino Real by Gada Hassany, the driver of the car. Hassany contended that she didn't see Liou until it was too late. A lawsuit was filed on Liou's behalf against Hassany and the state of California. The suit alleged that the location of the marked crosswalk was dangerous given that it is in a busy uncontrolled intersection with multiple lanes of traffic, and that it gives pedestrians a false sense of security. The state argued that there had been only three pedestrian accidents at this crosswalk in the past 10 years. The jury found the state 50 percent \$5,000,000, Hassany 30 percent, and Liou 20 percent liable.

**State: CA**

**Public Entity: Concord**

**Type of Entity: City**

**Settlement: \$ 750,000**

**Date of Loss:**

**Date of Verdict/Settlement: 11/10/2010**

**Facts:**

Sexual Harassment: The City Council voted to pay \$750,000 to settle a sexual harassment lawsuit filed by former police officer Lisa Capocci who sued the city of Concord alleging that one of her supervisors made inappropriate sexual advances toward her. When she complained, the supervisor and his colleagues retaliated by filing a half-dozen groundless internal affairs investigations against her. Capocci also contended that other officers were slow to back her up on calls. After being stripped of her position as a K-9 officer, Capocci quit the department in July, a year after filing the suit, no longer able to tolerate the work environment. The city will pay \$250,000 to former officer Lisa Capocci and \$500,000 in legal fees to her attorney's firm.

**State: CA**

**Public Entity: State of California**

**Type of Entity: State**

**Settlement: \$ 5,500,000**

**Date of Loss: 5/20/2000**

**Date of Verdict/Settlement:**

**Facts:**

On May 20, 2000, a 23-year-old passenger in a new 1999 Mazda Miata driven by his girlfriend, was severely injured when the driver lost control of the vehicle while attempting to negotiate the curve. The Miata left the roadway, went up an adjacent embankment, rolled, and landed upside down back on the roadway. The driver admitted to the CHP that she was going "too fast" for the curve at 60-65 mph. The airbags deployed and the seat belts remained fastened on both the driver and the passenger. The driver was able to unfasten her seat belt and remove herself from under the car. The passenger suffered fractures to his C4-6 vertebrae, rendering him an immediate C4-5 quadriplegic. He is permanently confined to a wheelchair and has virtually no use of his arms and legs. When the driver saw that the speed limit increased from 35 mph to 55

mph, she increased the speed of the Miata to approximately 60-65 mph in the straightaway following the 55 mph speed limit sign. Then, within 1200 feet of the 55 mph speed limit sign, the driver came upon a curve in the road. The State of California owns State Route 1. Although it is unknown when this portion of State Route 1 was originally designed or constructed, Caltrans widened the original 18-foot, two-lane road to a 32-foot wide roadway in the early 1980's. There was no sign in advance of the curve warning that it was only a 35 mph curve on a road with a 55 mph speed limit. Plaintiff sued the State of California for a dangerous condition of public property. After the jury deliberated for a week, our client reached a settlement with the State of California for \$5.5 million.

**State: CA**

**Public Entity: Pacific Grove**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 11/1/2004**

**Date of Verdict/Settlement:**

**Facts:**

In 2004 an 85-year-old woman was killed by a falling branch while visiting the Pacific Grove butterfly sanctuary. The city settled with her family for \$1 million.

**State: CA**

**Public Entity: Walnut Creek**

**Type of Entity: City**

**Settlement: \$ 650,000**

**Date of Loss: 9/30/2004**

**Date of Verdict/Settlement:**

**Facts:**

On 9/30/2004 Suman Jerng (18) and her sister Mai Jerng (11) walked to the Vons shopping center. A "banner light" owned and operated by the City of Walnut was out and a street light owned by SCE was malfunctioning. A car driven by Ronald Chou hit and killed Mai. Plaintiffs settled with the driver for two policy limits (\$100,000 each) and settled with the City of Walnut for \$650,000.

**State: CO**

**Public Entity: University of Colorado**

**Type of Entity: School District**

**Settlement: \$ 2,850,000**

**Date of Loss: 1/1/2001**

**Date of Verdict/Settlement: 12/5/2007**

**Facts:**

Two women filed a lawsuit against the University of Colorado, alleging that they were gang raped at an off campus party for football recruits. The women claimed that the University of Colorado violated federal law by fostering an environment that allowed sexual assaults to occur. The suit accused the university of failing to adequately supervise players when the women were raped in 2001. As part of a settlement reached, the 6-year-old scandalous suit reached resolution after the varsity agreed to pay \$2.85 million to the two women. Terms of the settlement call for Lisa Simpson to receive \$2.5 million, while the other woman will receive \$350,000. Sources close to the case stated that the university faced years of litigation over the case, and fees for outside attorneys had already reached \$3 million.

**State: CO**  
**Public Entity: Park County**                      **Type of Entity: County**  
**Settlement: \$ 1,500,000**  
**Date of Loss: 1/1/2003**  
**Date of Verdict/Settlement: 12/17/2007**

**Facts:**

Moises Carranza-Reyes, an illegal immigrant, brought charges against Park County and other parties, alleging that he lost part of his leg after becoming ill in the Park County jail in 2003.

**State: CO**  
**Public Entity: Denver**                              **Type of Entity: City**  
**Settlement: \$ 885,000**  
**Date of Loss: 4/18/2008**  
**Date of Verdict/Settlement: 10/20/2008**

**Facts:**

The Denver City Council approved an \$885,000 settlement with a teenager who alleged that police beat him up on 4/18/08. The council voted 12-1 in support of the financial settlement with the guardian of Juan Guillermo Vasquez, who was hospitalized with multiple injuries after a bloody confrontation with police.

**State: CO**  
**Public Entity: Larimer County**                      **Type of Entity: County**  
**Settlement: \$ 4,100,000**  
**Date of Loss: 12/1/1978**  
**Date of Verdict/Settlement: 2/16/2009**

**Facts:**

Wrongful Conviction: The Larimer County Board of County Commissioners on Tuesday, February 16, 2009, agreed to pay to Tim Masters \$4.1 million to settle claims made against the Eighth Judicial District of Larimer County and several of its former District Attorneys. He was fifteen years old in 1987, when he became the sole suspect for a horrific, sexual homicide in Fort Collins which he did not commit. His post-conviction defense team had begun unraveling the prosecutorial and police misconduct that had led to the wrongful conviction when he was exonerated by DNA evidence in 2008. His federal lawsuit, filed in 2009, alleged that the D.A.'s conspired with the Ft. Collins Police Department to frame him by manufacturing evidence against him, destroying or hiding key evidence of his innocence, and presenting false testimony to ensure a wrongful conviction. The current settlement relates to his legal claims against the Judicial District and its officials arising out of the wrongful prosecution and conviction of him for the murder. Tim's civil case continues against the police defendants and the City of Ft. Collins.

**State: CT**  
**Public Entity: State of Connecticut**                      **Type of Entity: State**  
**Settlement: \$ 500,000**  
**Date of Loss: 3/9/2004**  
**Date of Verdict/Settlement: 10/11/2007**

**Facts:**

A lawsuit was brought against Connecticut state correction officers alleging that they assaulted an inmate. Robert Joslyn, 32, who filed the lawsuit against Department of Correction Deputy Commissioner Brian Murphy, Capt. Matthew Regan, and 14 prison guards, claimed that the state correction officers severely beat him in 2004 for complaining to a ranking prison official about excessive force by guards against other inmates.

**State: CT**  
**Public Entity: Bridgeport**                      **Type of Entity: City**  
**Settlement: \$ 750,000**  
**Date of Loss: 11/7/2001**  
**Date of Verdict/Settlement: 3/21/2008**

**Facts:**

The family of 10-year-old Bianca Lebron brought a wrongful death lawsuit against the city of Bridgeport, alleging that the girl disappeared after leaving a city school in 2001. Lebron was waiting with other students to enter the school, when she apparently announced to her classmates that she was leaving with an uncle on a shopping trip. She was seen getting into an unfamiliar brown-and-tan van with tinted windows. The disappearance began a nationwide search, in which \$62,000 in reward money was offered for information about her disappearance and whereabouts. Although the 10-year-old girl is still missing, her family had her declared legally dead for the purposes of the lawsuit against the city and school district. The family alleged that negligence and carelessness of the school's employees led to Bianca's disappearance. The family stated that Bianca's teacher let her leave without confirming her story and marked her absent on his attendance list. The city agreed to \$750,000 in six yearly payments of \$125,000 to Bianca's family.

**State: CT**  
**Public Entity: Waterbury**                      **Type of Entity: City**  
**Settlement: \$ 8,000,000**  
**Date of Loss: 2/15/2007**  
**Date of Verdict/Settlement: 9/1/2010**

**Facts:**

Quadriplegia: On Feb. 15, 2007, Rose Marie Deschesnes, who was then 22 years old, was snow tubing on a hill at the city-owned park. She crashed into a metal bench near a baseball field at Fulton Park, causing a fracture of her fifth cervical vertebra. She received an \$8 million settlement from the city. She suffered a spinal cord injury that left her a quadriplegic. She filed a lawsuit last in 2009 alleging the city should never have put a bench at the base of such a popular sledding spot and failed to take safety precautions. Deschesnes' lawyer says the settlement money will be put into a trust to pay for her medical and living expenses for the rest of her life. An aide to the mayor says he believes the bench has been removed.

**State: DC**  
**Public Entity: Washington Metropolitan Transit Authority**                      **Type of Entity:**  
**Transit**  
**Settlement: \$ 2,300,000**  
**Date of Loss: 2/14/2007**  
**Date of Verdict/Settlement: 6/14/2008**

**Facts:**

Wrongful Death: A \$2.3 million settlement has been reached in a wrongful death matter in Washington, DC. Martha Stringer Schoenborn, 59, and her friend Sally Dean McGhee, 54, were struck by a Metro bus while in a downtown crosswalk. The lawsuit was filed by Gregory Schoenborn, husband of one of the victims. Metro driver Victor Kolako pleaded guilty in September to two felony counts of negligent homicide and was sentenced to a year in jail last December. Apart from the settlement, Metro has added safety measures, and added training programs for bus drivers. Additionally, the D.C. Department of Transportation added a left-turn lane and a left-turn arrow at the intersection where the accident occurred. Loss occurred in 2007.

**State: DE**

**Public Entity: New Hanover County**

**Type of Entity: County**

**Settlement: \$ 2,450,000**

**Date of Loss: 12/1/2006**

**Date of Verdict/Settlement: 2/27/2008**

**Facts:**

Wrongful Death: The family of 18-year-old Peyton Strickland brought a wrongful death lawsuit against New Hanover County and its Sheriff's Department, after the teen was shot and killed by a sheriff's deputy in a bungled raid on the victim's home in December 2006. Strickland was a suspect in the theft of a Playstation 3 game from another UNCW student. The deputy confused the sound of a battering ram hitting the door for gunshots and shot through the door, hitting Strickland in the head. As part of a settlement reached in the case, sources confirmed that New Hanover County has agreed to pay \$2.45 million to resolve the wrongful death lawsuit.

**State: FL**

**Public Entity: Miami Beach**

**Type of Entity: City**

**Settlement: \$ 1,500,000**

**Date of Loss: 2/1/2003**

**Date of Verdict/Settlement: 1/8/2006**

**Facts:**

Wrongful Death: In February 2003, Stephanie Tunc and her sister Sandrine Tunc were sun tanning on Miami Beach when they were run over by a sport utility vehicle driven by Miami Beach police officer George Varon. Stephanie was killed in the accident while her sister Sandrine survived with a punctured leg, lacerated liver, and tire burns. Their family filed a wrongful death and negligence lawsuit against the city and was awarded a \$1.5 million settlement.

**State: FL**

**Public Entity: Delray Beach**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 2/1/2005**

**Date of Verdict/Settlement: 9/11/2007**

**Facts:**

Wrongful Death: The family of Jerrod Miller, a teen fatally shot by a rookie Delray Beach police officer, brought a wrongful death lawsuit against the city, claiming that the city and then-rookie officer Darren Cogoni acted negligently in the February 2005 death of Jerrod Miller. The suit stated that Cogoni was assigned to security for a 'unity' dance at the Delray Full Service Center when 16-year-old Miller, who had no license and was driving a borrowed car, pulled up to the entrance and fled when Cogoni asked him for identification. His car careened onto the school campus and swerved towards a group of students near the school's gym before heading down a narrow outdoor passageway. Cogoni fired at least two shots; one struck the teen in the head. The suit charged Cogoni and the city of violating Miller's civil rights by fostering an environment in which the excessive use of deadly force flourished. In a settlement reached, city officials agreed to pay Miller's family \$1 million, ending the wrongful death suit.

**State: FL**

**Public Entity: Palm Beach County School District**

**Type of Entity: School District**

**Settlement: \$ 1,100,000**

**Date of Loss: 11/1/2004**

**Date of Verdict/Settlement: 9/16/2007**

**Facts:**

Wrongful Death: The parents of 15-year-old Diana Kautz, brought a lawsuit against Palm Beach County School District, after their daughter died in a November 2004 school bus accident. The bus driver ran a stop sign just before the bus smashed into a pickup truck. Diana Kautz, a freshman at Royal Palm Beach High School, was thrown from the bus and killed. All buses bought since 2000 have seat belts, but their use is not mandatory. Bus drivers are trained to instruct students to wear them. In a settlement reached, the Palm Beach County School District agreed to pay the family \$1.1 million, ending the wrongful death lawsuit.

**State: FL**

**Public Entity: Miami-Dade School District**

**Type of Entity: School District**

**Settlement: \$ 1,700,000**

**Date of Loss: 2/3/2004**

**Date of Verdict/Settlement: 3/26/2008**

**Facts:**

Wrongful Death: The family of 14-year-old Jaime Gough brought a wrongful death lawsuit against the Miami-Dade School District, after the teenager was stabbed to death in the bathroom of Southwood Middle School in 2004. The school system agreed to pay the Goughs \$1.7 million. The district paid the family \$200,000, which is the legal limit for government agencies under sovereign immunity laws, and its insurance company paid an additional \$500,000. The remainder comes under a special clause, where a state Senate special master's opinion stated that the district shouldn't be held liable for the attack. Sources said that for Jaime's parents to collect the remainder, the Florida Legislature must pass a claims bill.

**State: FL**

**Public Entity: Florida State Child Welfare Dept.**

**Type of Entity: State**

**Settlement: \$ 18,200,000**

**Date of Loss: 1/11/2001**

**Date of Verdict/Settlement: 4/1/2008**

**Facts:**

Child Abuse: Child welfare workers failed to heed warnings from doctors and nurses who treated 9-year-old Marissa Amora, for abuse related injuries. The suit stated that the 9-year-old girl sustained irreversible brain damage from abuse by her mother and her mother's live-in-boyfriend. Marissa was severely beaten at age 2, a month after abuse reports were made to DCF. They said the mother spanked her sick baby in her hospital bed. She called her 2-year-old daughter "hardheaded." Hospital workers alerted child abuse investigators at the Department of Children and Families. Increasingly insistent, they asked the state not to send the child home until a full investigation could be done. That didn't happen. A month later, the girl was beaten nearly to death. Investigators believe she was held by her feet and shaken, probably by her mother's boyfriend.=

**State: FL**

**Public Entity: Pinellas School Board**

**Type of Entity: School District**

**Settlement: \$ 1,000,000**

**Date of Loss: 4/12/2005**

**Date of Verdict/Settlement: 4/11/2008**

**Facts:**

The family of E'Traveon Johnson, a Fairmount Park Elementary student, brought a lawsuit against the Pinellas School Board after the 6-year old child was struck by a car after running away from his St. Petersburg elementary school on 4/12/2005. Records show that he ran away from the school and was struck by a Cutlass Supreme as he tried to cross Fifth Avenue S at 41st Street. He suffered life-threatening injuries as a result of the crash. He spent more than three months at All Children's Hospital with injuries to his brain, spine and neck. Investigations carried out by the district show E'Traveon leaving the school and running through a set of glass doors. Pinellas School Board approved a \$1.1 million settlement in the case.. E'Traveon remains paralyzed and depends upon Medicaid for his medical care. The district will pay the first \$200,000, the maximum allowed under a state law that caps liability for school districts and other public agencies, and its insurance company would pay the remaining \$900,000.

**State: FL**

**Public Entity: Vero Beach**

**Type of Entity: City**

**Settlement: \$ 4,000,000**

**Date of Loss: 10/9/1999**

**Date of Verdict/Settlement: 4/29/2008**

**Facts:**

Laura LaPorte, a Vero Beach resident, brought a personal injury lawsuit against the city, after an accident with a state employee left her partially paralyzed. LaPorte, now 51, was hit by a vehicle driven by a citrus inspector in 1999. Court records reveal that in an earlier verdict in 2002, a jury awarded LaPorte \$5.5 million. Circuit Judge Robert Hawley affirmed that amount. As per state law, under the state's sovereign immunity protection, local governments and state agencies are not allowed to pay more than \$200,000 if a person is wrongly maimed or killed. To get more than the cap, the Legislature needs to pass a claims bill authorizing the award. In a recent development in the decade-long case, Gov. Charlie Crist signed into law a \$4 million settlement with Vero Beach resident Laura LaPorte. The settlement was meant to partially compensate her for the injuries she suffered during the crash.

**State: FL**

**Public Entity: Miami Beach**

**Type of Entity: City**

**Verdict: \$ 5,750,000**

**Date of Loss: 2/20/1997**

**Date of Verdict/Settlement: 12/15/2009**

**Facts:**

Federal Court Verdict Upholds \$5.75 million legal settlements. A verdict has been reached against Monticello Insurance Company, which had refused to pay a settlement between the City of Miami Beach and the families of Zachary Breaux and Eugenie Poleyeff, who drowned there on February 20, 1997. Breaux, 36, his wife, and three daughters were vacationing at the Seville Hotel on Miami Beach. Nearby, Rabbi Israel Poleyeff and his wife, Eugenie, 66 had rented lounge chairs and umbrellas behind the hotel. When Mrs. Poleyeff was caught in the rip current, Breaux entered the water to save Mrs. Poleyeff. Both drowned while Breaux's wife and three young daughters watched in horror. The case created a landmark ruling. In 2005. The Florida Supreme Court ruled that cities, like private landowners, have a responsibility to warn beachgoers of dangerous conditions that are known or should be known.

**State: FL**

**Public Entity: Palm Beach School District**

**Type of Entity: School District**

**Verdict: \$ 5,000,000**

**Date of Loss: 12/15/2005**

**Date of Verdict/Settlement: 2/12/2010**

**Facts:**

A high school basketball standout who now stars on a community college team won a \$1 million verdict from a jury that believed the Palm Beach County School Board should pay for future medical treatment he will need as a result of a 12/15/05 school bus crash. The verdict for former Grandview Prep forward Altavious Carter brings the tab for the crash to \$5 million. In 2008, the school board agreed to pay Vincent Merriweather \$4 million. Merriweather, an assistant coach at Summit Christian, was driving Carter home from basketball practice when a school bus plowed into his van that was stopped for a red light in Wellington. In a statement, the school board called the crash "unfortunate and rare." The bus driver resigned. It did not indicate whether it would fight the decision. As a government agency, it can't be forced to pay more than \$100,000. The Legislature, however, can approve damages that exceed the statutory cap. The board didn't contest Merriweather's payment. Denney said he plans to ask the Legislature to approve Carter's award.

**State: FL**

**Public Entity: Tampa**

**Type of Entity: City**

**Verdict: \$ 17,900,000**

**Date of Loss: 11/26/1996**

**Date of Verdict/Settlement: 12:00:00 AM**

**Facts:**

Ramiro Companioni was severely injured on 11/26/1996 when his motorcycle slammed into the back of a city truck. His attorney argued the that truck caused the crash by veering dangerously across three lanes of traffic. Companioni, once a successful chef, learned to walk again after nearly having his legs amputated. His right knee was fused and he could not bend at the waist. A jury awarded him \$17.9 million in 2004. The case has been on appeal since. State law limits the city's liability to \$100,000. It would take a special legislative act to collect more. On 12/16/2010 justices sent the case back to the 2nd District Court of Appeal, where the city will make more arguments for a new trial.

**State: IL**

**Public Entity: Chicago Police Department**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 7/16/2000**

**Date of Verdict/Settlement: 10/11/2006**

**Facts:**

Wrongful Conviction: Attorneys have reached a one million dollar settlement with the Chicago Police for Corethian Bell, a mentally disabled man who was coerced into confessing to the murder of his mother and spent 17 months in Cook County Jail for a crime he did not commit. Bell found his murdered mother in her apartment on July 16, 2000, and immediately called the police to report the crime. He was wrongly charged in her murder after he gave a video taped confession that Chicago police elicited after more than 50 hours of interrogation during which Bell repeatedly said he did not commit the crime. The police had no evidence that Bell committed the murder. Bell then spent 17 months in Cook County Jail while the case was pending. The Cook County State 's attorney eventually dropped the charges against Bell after DNA evidence proved his innocence. Suit was filed in 2002 in the Circuit Court of Cook County



against five officers involved in the interrogation and the City of Chicago. The City settled for \$1,000,000 on October 11, 2006.

**State: IL**

**Public Entity: Cook County**

**Type of Entity: County**

**Settlement: \$ 950,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 4/18/2007**

**Facts:**

The Cook County board agreed to pay a \$950,000 settlement in a lawsuit claiming that an inmate's requests for medical attention were ignored before she died in jail in 2002. Marie O'Donnell-Smith, 38, was an inmate at Cook County Jail and had been arrested for shoplifting, the Chicago Tribune reported in its Thursday editions. The suit alleged that after O'Donnell-Smith collapsed, a nurse at the jail's health services told her she would have to crawl to the dispensary. Then two nurses allegedly pulled and pinched O'Donnell-Smith's arms and legs while she was on the floor. O'Donnell-Smith was found dead in her cell hours later.

**State: IL**

**Public Entity: Chicago**

**Type of Entity: City**

**Settlement: \$ 650,000**

**Date of Loss: 9/14/2001**

**Date of Verdict/Settlement: 9/5/2007**

**Facts:**

Wrongful Death: The family of Lajuanzo Brooks, a 21-year-old Homewood man, brought a wrongful death lawsuit against the city and its police department after an off-duty Chicago Police officer shot him to death. The incident took place at 1:50 a.m. on Sept. 14, 2001, shortly after the officer gotten off work. The officer was about to enter a bar when he was approached by an elderly friend who wanted to show the officer a scuff his Corvette parked in a nearby alley. Brooks allegedly came between the officer and his friend, pulled a gun and announced a robbery. The off-duty officer reached into his pocket as if he were about to hand over his wallet and, instead, pulled out his service revolver, announced his office, and shot Brooks three times; once in the back of the neck and twice in the back. Brooks died from his wounds. In a settlement reached, Brooks's family received \$650,000. Police ruled the shooting justified after a gun that reportedly belonged to Brooks was found at the scene. But two fingerprints on the gun didn't match anybody at the scene.

**State: IL**

**Public Entity: Will County**

**Type of Entity: County**

**Settlement: \$ 15,500,000**

**Date of Loss: 6/1/2004**

**Date of Verdict/Settlement: 3/1/2008**

**Facts:**

Wrongful Conviction: Kevin Fox was wrongfully convicted of sexually assaulting and murdering his daughter. He was eventually freed as a result of DNA testing. Fox claimed detectives subjected him to threats during an interrogation in which he allegedly implicated himself. Mr. Fox was incarcerated for 8 months. The DNA found on the girl's body was shown not to be his. Fox and his wife sued Will County and five detectives, accusing them of framing him for the crime. The two sides reached a settlement agreement, in which the parents of slain 3-year-old Riley Fox got \$15.5 million to resolve their lawsuit.

**State: IL**

**Public Entity: Chicago Transit Authority**

**Type of Entity: Transit**

**Settlement: \$ 1,250,000**

**Date of Loss: 7/11/2006**

**Date of Verdict/Settlement: 4/16/2008**

**Facts:**

The family of an 85-year-old woman brought a personal injury lawsuit against the Chicago Transit Authority, after she sustained severe injuries in the Blue Line train derailment. Around 64 other victims from the derailment also brought charges against the CTA. As part of a settlement reached, the Chicago Transit Authority agreed to pay the 85-year-old woman \$1.25 million to resolve the personal injury claim.

**State: IL**

**Public Entity: Cook County**

**Type of Entity: County**

**Settlement: \$ 9,000,000**

**Date of Loss: 10/17/2003**

**Date of Verdict/Settlement: 4/22/2008**

**Facts:**

Wrongful Deaths: A series of wrongful death lawsuits were brought against Cook County by victims of a 2003 fire at the county's downtown Chicago administration building that killed six people. The lawsuit named six defendants, the county being one of them. A settlement agreement was reached in the case, in which the county agreed to pay \$9 million to resolve the lawsuits. Court records indicate that Aargus Security, a security company settled for \$11 million, and the other four defendants settled for a total of \$6 million. Reports of the disaster showed that six workers died after they became trapped in smoke-filled stairways.

**State: IL**

**Public Entity: Metra Transit, Chicago**

**Type of Entity: Transit**

**Settlement: \$ 11,000,000**

**Date of Loss: 9/1/2005**

**Date of Verdict/Settlement: 11/12/2008**

**Facts:**

Wrongful Deaths: Two wrongful death suits brought against Chicago's public transit system, Metra, have been settled this week for \$11 million. The suits stem from the deaths of college student Jane Cuthbert and research technician Allison Walsh who were killed in September 2005 when a train derailed. More than 80 additional passengers were injured.

**State: IL**

**Public Entity: Chicago**

**Type of Entity: City**

**Verdict: \$ 1,900,000**

**Date of Loss: 11/19/2002**

**Date of Verdict/Settlement: 1/26/2009**

**Facts:**

Wrongful Conviction: On 1-26-09 U.S. District Court Judge Ruben Castillo reduced a jury verdict against the City of Chicago and three Chicago police officers from \$7.9 million to \$1.9 million. Plaintiff, Rachelle Jackson, was arrested on November 19, 2002 for attempting to disarm Chicago police officer Kelly Brogan after Brogan's squad car was involved in a serious automobile accident. Ms. Jackson admitted to pulling Officer Brogan out of the squad car and placing her in a "full nelson" hold but claimed she was trying to rescue Officer Brogan, not disarm her. Ms. Jackson spent ten months in jail before her criminal charges were ultimately dismissed at trial. Ms. Jackson then filed a civil suit against the Chicago police officers involved

in her arrest. Following a nine-day jury trial, the jury awarded Ms. Jackson \$7.9 million on her various claims. In granting the defendants' motion for a remittitur, the judge agreed that the jury's damage award was "monstrously excessive," not rationally related to the evidence presented, and out of range with awards in similar cases.

**State: IL**

**Public Entity: Chicago**

**Type of Entity: City**

**Verdict: \$ 21,000,000**

**Date of Loss: 1/1/1989**

**Date of Verdict/Settlement: 6/22/2009**

**Facts:**

Wrongful Conviction: Juan Johnson who spent eleven and a half years in prison for a murder he did not commit was awarded \$21 million in a wrongful conviction case. The 39-year-old says he was framed by a Chicago police detective who specialized in gang investigations. Johnson was convicted and eventually acquitted of beating to death a man with a two-by-four. The city says Johnson was part of a gang back then and is currently a gang member. Johnson's lawyers say that is not the case. Meantime, Northwestern University's Center on Wrongful Convictions is investigating more than 40 alleged frame-ups by Detective Guevara.

**State: IL**

**Public Entity: Illinois DOT**

**Type of Entity: State**

**Verdict: \$ 23,838,668**

**Date of Loss: 4/19/2004**

**Date of Verdict/Settlement: 9/10/2009**

**Facts:**

Paraplegia: On 4/19/04 Andrzej Chraca, then 32, was driving a sport utility vehicle when he was struck by Steve Miles in a state Department of Transportation utility truck. Chraca suffered a T-12 burst fracture which rendered him an incomplete paraplegic. He is unable to walk without leg braces and the use of canes or a walker. Miles also claimed injuries and sued Chraca and his employer, United Woodworking, for vehicular negligence. The cases were consolidated and tried together. Chraca and Miles both claimed that they had the green light. The jury found Miles 95 percent negligent and Chraca 5 percent negligent. Chraca was awarded \$25,093,335 which was reduced to \$23,838,668, the highest verdict for a paraplegic in Cook County.

**State: IL**

**Public Entity: Winnebago County**

**Type of Entity: County**

**Settlement: \$ 15,500,000**

**Date of Loss: 1/14/2006**

**Date of Verdict/Settlement: 9/20/2009**

**Facts:**

Fatalities (2) & Brain Damage: Winnebago County agreed to pay \$15.5 million to settle lawsuits brought after a sheriff's deputy drove his squad car into a passenger vehicle, killing two people and leaving a third with brain damage. Aaron Bachman, 21, and DJ Bachman, 15, were killed on Jan. 14, 2006, when the car they were riding in, driven by their sister, Kori, 19, was broadsided by a squad car driven by Winnebago County Sheriff's Deputy.

**State: IL**

**Public Entity: Chicago Board of Education**

**Type of Entity: School District**

**Settlement: \$ 14,600,000**

**Date of Loss: 12/14/1992**

**Date of Verdict/Settlement: 2/25/2010**

**Facts:**

Quadriplegia: After 17 years of litigation, a \$14.6 million settlement has been reached in a trampoline injury lawsuit filed against the Chicago Board of Education and a youth center. Ryan Murray was 13 years old when he became a quadriplegic in 1992 after breaking his neck while performing a flip on a mini-trampoline. Chicago Youth Centers was conducting a tumbling class at Bryn Mawr School at the time. Trampolines had been banned in school districts nationwide 10 to 15 years before the incident. Attorneys for Murray, now 30, claimed the Board of Education should never have allowed the trampolines in the school. The insurer for Chicago Youth Centers will pay \$2 million of the settlement. The Board of Education will pay the rest.

**State: IL**

**Public Entity: Cook County**

**Type of Entity: County**

**Settlement: \$ 55,300,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 11/16/2010**

**Facts:**

Strip Search: The Cook County Board approved a \$55.3 million settlement in a class-action civil lawsuit alleging that thousands of inmates at the county jail were improperly strip searched. The courts had already determined the strip search procedures improper. Some of the victims should not have been strip searched and were in jail on charges as minor as failure to appear in court for traffic offenses. Had the board rejected the settlement and continued to litigate the case, the county could have ended up paying far more in damages. Procedures at the jail have been changed under Sheriff Tom Dart. Inmates are now searched with electronic equipment, much like the increasingly controversial devices used in some instances at airports. The attorneys representing the former jail inmates will be paid \$15 million.. The rest will go to more than 250,000 inmates jailed between Jan. 30, 2004 and March 19, 2009. Payments will range from about \$500 to \$1,000, the lawyers said. County insurance will cover \$10 million of the costs. Taxpayers will foot the rest.

**State: IL**

**Public Entity: University of Illinois at Chicago Medical Center**

**Type of Entity:  
School District**

**Settlement: \$ 16,200,000**

**Date of Loss: 2/1/2005**

**Date of Verdict/Settlement: 11/21/2010**

**Facts:**

Brain Damage: The University of Illinois agreed to pay \$16.2 million to George Nissen, a former police officer who suffered brain damage while being treated for a stroke at the schools Chicago hospital. Two nurses at the University of Illinois at Chicago Medical Center failed to properly monitor his condition while he was patient in February 2005. He alleged that his doctors were not notified for hours that the pressure inside his skull was elevated. The 47-year-old Nissen is now a quadriplegic. His attorneys say he can't eat or speak and communicates only through eye movements.

**State: KS**  
**Public Entity: Manhattan, KS and Riley County, KS**

**Type of Entity: City  
& County**

**Settlement: \$ 7,500,000**  
**Date of Loss: 7/26/1981**  
**Date of Verdict/Settlement: 2/7/2010**

**Facts:**

Wrongful Conviction: Eddie Lowery lived at the Kansas State Penitentiary at Lansing for nearly a decade after he was convicted of the rape of a 74 year old woman on 7-26-1981. He was paroled in 1991 and lived much of the next decade as a registered sex offender. He was exonerated in 2002 when DNA evidence proved that he did not commit the crime. In 2004 Mr. Lowery filed suit in the United States District court against the Riley County Police Department and several of its officers, along with various local units of government, including the City of Manhattan and Riley County, for wrongful arrest, conviction and incarceration. After a six-year legal fight Lowery settled for \$7.5 million. In a memo to the Manhattan City Commission, the Manhattan city attorney outlined a settlement plan that called for the city to pay \$1.34 million. Riley County was to pay \$336,000. The rest would be paid by insurance companies that represented the cities and agencies involved.

**State: KY**  
**Public Entity: TARC**                      **Type of Entity: Transit**

**Settlement: \$ 7,000,000**  
**Date of Loss: 8/8/2005**  
**Date of Verdict/Settlement: 12/3/2007**

**Facts:**

Brain Damage: Lawyer Kevin Hable brought charges against TARC, the public bus transportation system serving Greater Louisville, KY, after he sustained permanent brain injuries in an 8/5/2005 collision with a bus. Hable alleged that the bus driver had a history of drug abuse, an allegation that was confirmed after a drug test administered two days later found with "reasonable scientific probability" that the bus driver was under the influence of cocaine at the time of the collision. Hable alleged that TARC was negligent in hiring the driver from a drug-treatment program, then retaining her when she tested positive for cocaine after an incident the following year. Sources claimed that Hable, who once was cabinet secretary to former Gov. Brereton Jones and managing partner at Wyatt Tarrant & Combs, was forced to take early retirement from the law firm because of his injuries. As part of a settlement reached, TARC agreed to resolve the matter out-of-court by paying Hable \$7 million.

**State: KY**  
**Public Entity: Bowling Green**                      **Type of Entity: City**

**Settlement: \$ 1,000,000**  
**Date of Loss: 4/1/2006**  
**Date of Verdict/Settlement: 4/25/2008**

**Facts:**

Wrongful Death: The family of Allison "Ali" Carter, a 20-year-old Western Kentucky University student brought a wrongful death lawsuit against the city of Bowling Green, after she was killed in a wreck with a Bowling Green police officer. The death occurred when Carter's vehicle was hit in the side by a police cruiser driven by Officer David Hall in April 2006. Sources close to the negotiations stated that the two sides had reached a settlement agreement, in which the city agreed to a \$1 million payout to the family of the Western Kentucky University Sophomore. The Carters' legal counsel stated that the settlement helped the family find out what happened when their daughter was killed.

**State: KY**

**Public Entity: Whitley County**

**Type of Entity: County**

**Verdict: \$ 6,282,480**

**Date of Loss: 6/13/2007**

**Date of Verdict/Settlement: 11/13/2010**

**Facts:**

Excessive Force: Dalton Brewer, age 27, sued Tony Ramey and Whitley County on a civil rights violation theories claimed that he was injured when a volunteer Whitley County Sheriff's Deputy beat him with a pistol. He claimed that Tony Ramey used excessive force. On 6/13/2007 the Whitley County Sheriff's office was hit by a federal jury with a \$6.2 million verdict for civil rights violations that caused serious and lasting injuries to the injured plaintiff. Dalton Brewer v. Whitley County Sheriff, U.S. District Court, London, No. 08-CV-183-GFVT. The jury awarded: Physical pain and suffering:\$1,650,000; Emotional and mental harm:\$1,650,000; Past lost wages or income:\$183,300; Future impairment to labor and earn money: \$2,512,000; Past medical expenses: \$103,180; Future medical expenses: \$184,000. Total: \$6,282,480. Brewer sued Whitley County, the sheriff and the sheriff's department after he was beaten by a former deputy who claimed to have been an active deputy of the Whitley sheriff.

**State: MA**

**Public Entity: Cambridge**

**Type of Entity: City**

**Verdict: \$ 4,500,000**

**Date of Loss: 9/1/2003**

**Date of Verdict/Settlement: 4/28/2009**

**Facts:**

A judge affirmed a jury's May 2009 verdict that Cambridge should pay Malvina Monteiro, the former city employee, more than \$4.5 million after it found officials retaliated against her for filing a 1998 complaint alleging discrimination on the basis of race and national origin. Monteiro lost her job in September 2003 as executive director of the city's Police Review and Advisory Board, a civilian oversight group. She resigned after city officials informed her of their intention to fire her. Monteiro, who is Cape Verdean, was hired by Cambridge in July 1990. She originally filed a complaint with the Massachusetts Commission Against Discrimination in September 1998. A trial in 2005 ended when a jury found that Monteiro failed to prove the city discriminated against her before she filed her complaint, but the jury deadlocked on three other counts dealing with whether Cambridge discriminated or retaliated against her after filing the complaint.

**State: MA**

**Public Entity: Franklin County**

**Type of Entity: County**

**Settlement: \$ 1,100,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 7/16/2010**

**Facts:**

Strip Search: A \$1.1 million settlement has been approved ending a class action brought against the Franklin County Jail by hundreds of detainees who allege they were strip searched without justification, and that it was unconstitutional. Some 486 plaintiffs, who are former detainees, will each be eligible for as much as \$3500 under the settlement terms. The plaintiffs have until October 11 2010 to submit a claim. The plaintiffs alleged that the jail's policy was to strip-search all detainees when they arrived at the facility or left for court. According to a report on Boston.com, the law was discontinued in 2007, when a new, modern jail was built in Greenfield, replacing the outdated Franklin County facility]

**State: MD**

**Public Entity: Baltimore**

**Type of Entity: City**

**Settlement: \$ 6,000,000**

**Date of Loss: 1/1/1997**

**Date of Verdict/Settlement: 12/13/2004**

**Facts:**

Excessive Force: Jeffrey Alston was left paralyzed after his neck was broken during a 1997 arrest by Baltimore police. He was stopped for speeding by officer Arnold McDonald who said he initially wanted to issue Mr. Alston a ticket but took him into custody after smelling alcohol on the man's breath. Mr. Alston stated that three additional officers arrived at the scene and that he "was handcuffed, put in leg irons, strip-searched, put in a headlock and then thrown headfirst" into the back of a police van. Alston has agreed to a \$6 million settlement. He is currently receiving around the clock care at an Ellicott City nursing home. A jury awarded Alston \$39 million earlier this year, but the payout was reduced and delayed by appeals. A Circuit Court jury ordered the city to pay Mr. Alston \$559,334 for past medical expenses, an additional \$8.5 million for future life-care costs and \$30 million for physical and mental pain, impairment and disfigurement.

**State: MD**

**Public Entity: State of Maryland**

**Type of Entity: State**

**Settlement: \$ 500,000**

**Date of Loss: 5/1/2005**

**Date of Verdict/Settlement: 5/7/2008**

**Facts:**

Wrongful Death: The family of Raymond K. Smoot, a detainee at the Central Booking and Intake Center, brought a wrongful death suit against the state, alleging that Smoot was fatally beaten by correctional officers inside Baltimore's state-run center.

**State: MI**

**Public Entity: Troy School District**

**Type of Entity: School District**

**Verdict: \$ 2,440,000**

**Date of Loss: 6/30/2002**

**Date of Verdict/Settlement: 4/29/2006**

**Facts:**

Agnes Auvenshine, 40, a former Troy Athens High School math teacher, was terminated at the end of the 2002 school year, the third year of her four-year probation period. She filed an Equal Employment Opportunity complaint and received a right-to-sue letter. Auvenshine, of Chinese descent, claimed that Athens principal Catherine Cost criticized her and implied that she needed to modify her behavior because her cultural background was inhibiting her teaching performance. She also claimed that Cost passed her over for a computer job in favor of a white teacher. A jury in U.S. District Court in Detroit issued a \$2.44 million judgment against the district and principal Catherine Cost. Auvenshine was hired in 1999 as a probationary math teacher. Cost became principal in 2000. The complaint filed on behalf of Auvenshine argued that the district violated the state Elliott-Larsen Civil Rights Act, and that Cost violated a section of the Federal Civil Rights Act.

**State: MI**

**Public Entity: Berrien County**

**Type of Entity: County**

**Settlement: \$ 5,085,000**

**Date of Loss: 8/23/2002**

**Date of Verdict/Settlement: 9/1/2006**

**Facts:**

Wrongful Death: On July 17, 2002 Dr. David Alan Speers was arrested for drunk driving and released on bond. On August 20, 2002 he was scheduled for a hearing but was found to be intoxicated (.227 BAC) in violation of the terms of his release. The judge found him in contempt of court and sentenced him to three days in prison where he was placed in a "drunk tank" and then moved to "sick call". A doctor determined that Speers was in the early stage of alcohol withdrawal and suffering with DTs. On August 23, 2002 he was found in his cell not breathing. Cause of death was determined to be chronic ethanolism with hypertensive cardiovascular disease and atherosclerotic disease. The family sued the Berrien County for grossly negligent medical care.

**State: MI**

**Public Entity: Eastern Michigan University**

**Type of Entity: School District**

**Settlement: \$ 2,500,000**

**Date of Loss: 12/12/2006**

**Date of Verdict/Settlement: 1/2/2007**

**Facts:**

The US Department of Education (DOE) brought charges against EMU, following the death of 22-year-old student Laura Dickinson on 12/12/2006. The death occurred on campus, due to alleged lack of security and surveillance. It would be 10 weeks before the full story came out. On 2/23/2007 Eastern Michigan student Orange Taylor III was arrested. This was how her fellow students — and her family — learned she had been killed. The university was fined \$357,500 for violating the federal Clery Act. Under the Clery Act, universities are required by federal law to inform students of all crimes that have occurred on or near the campus that pose a potential threat to public safety. The Dickinson family sued the university for the wrongful death of their daughter. The university reached a \$2.5 million settlement with the Dickinson family to avoid any potential lawsuits. EMU will only be responsible for a \$150,000 deductible. The rest will be covered by insurance.

**State: MI**

**Public Entity: Detroit**

**Type of Entity: City**

**Settlement: \$ 1,500,000**

**Date of Loss: 6/4/2005**

**Date of Verdict/Settlement: 7/25/2007**

**Facts:**

The family of Demetrius Murry brought a lawsuit against the city, after Murry, 31, was killed June 4, 2005, when he was hit by an empty bus driven by Detroit Department of Transportation driver Carmichael Posley. Murry's fiancée, Tina Rice, stated that the accident occurred because Posley was tired at the end of his shift. In a settlement reached, the city agreed to grant Rice \$1.5 million. Rice and Murry have four children.



**State: MI**

**Public Entity: Detroit**

**Type of Entity: City**

**Settlement: \$ 1,200,000**

**Date of Loss: 7/3/2005**

**Date of Verdict/Settlement: 12/3/2007**

**Facts:**

Wrongful Death: The family of Anthony Scott brought a wrongful death lawsuit against the city of Detroit, alleging that Scott was shot to death by a police officer at a gas station on 7/3/05. Scott and his two teenage cousins had left a birthday party to buy candles and cigarettes at a gas station. A police car followed them to the gas station, and two officers then approached the vehicle with their weapons drawn. Another officer who was working undercover nearby, also drew his gun after seeing the two other officers attempt to get the three men out of the vehicle. Scott was asked to step out of the vehicle and was shot twice because it appeared he was trying to reach for a weapon in his lap. Sources stated that Scott had an eight-inch hunting knife in his waistband when he was killed. As part of a settlement reached, the city council has tentatively awarded the family \$1.2 million to resolve the wrongful death lawsuit.

**State: MI**

**Public Entity: Michigan Dept. of Correction**

**Type of Entity: State**

**Verdict: \$ 15,000,000**

**Date of Loss: 1/1/1996**

**Date of Verdict/Settlement: 2/1/2008**

**Facts:**

Inmate Abuse; Ten female inmates brought a lawsuit against the Michigan Department of Corrections in 1996, alleging that they were raped and sexually harassed by male staff in a Michigan state prison. A jury awarded \$15 million to the 10 female inmates, resolving the inmate abuse lawsuit. It is estimated that once interest is factored in, the women could get about \$30 million.

**State: MI**

**Public Entity: Washtenaw County**

**Type of Entity: County**

**Settlement: \$ 4,000,000**

**Date of Loss: 6/1/2006**

**Date of Verdict/Settlement: 2/16/2008**

**Facts:**

Wrongful Death: The family of Clifton "Pete" Lee Jr., a Ypsilanti Township man, brought a wrongful death lawsuit against the Washtenaw County Sherriff's Department, alleging that the Sheriff's Department was responsible for the arrest of a 45 year old man who died of asphyxiation and respiratory restriction after a traffic stop. Records show that the claims were made under the Michigan Wrongful Death Act. The suit claimed that the death occurred after Lee suffered excessive force and other forms of police abuse, which are in violation of every American's constitutional rights and civil claims. As part of a settlement reached, sources close to the case stated that the Washtenaw County Sheriff's Department resolved the wrongful death lawsuit with a \$4 million payout to the Lee's family.

**State: MI**

**Public Entity: River Rouge**

**Type of Entity: City**

**Settlement: \$ 1,800,000**

**Date of Loss: 2/1/2006**

**Date of Verdict/Settlement: 2/18/2008**

**Facts:**

Wrongful Death: Jailhouse Hanging. The family of Tatisha Gant brought a civil lawsuit against the River Rouge Police Department, alleging that it was responsible in the jailhouse hanging of the 25-year-old girl. The suit accused police of knowing that Gant needed medical attention and of failing to get any for her. The civil suit was filed by Gant's mother, Earletta Gant, in September 2006. Five months earlier, a complaint was filed in Wayne County Circuit Court against River Rouge, claiming the city hadn't responded to a Freedom of Information Act request. Sources close to the case stated that the parties had reached a settlement, in which River Rouge agreed to pay \$1.8 million to the family of Tatisha Gant, resolving the civil wrongful death suit. Sources said that the settlement is the largest in a jailhouse hanging in Michigan history.

**State: MI**

**Public Entity: Hudson Area Schools**

**Type of Entity: School District**

**Verdict: \$ 800,000**

**Date of Loss: 1/1/2007**

**Date of Verdict/Settlement: 3/8/2010**

**Facts:**

Bullying: A Michigan school district was ordered to pay \$800,000 to a student who claimed the school did not do enough to protect him from years of bullying, some sexually tinged. It started with name-calling in middle school and escalated as Dane Patterson entered high school. Some of the harassment was bullying, such as being shoved into lockers. Other harassment was decidedly sexual in nature. He was called sexual insults, his locker and notebook were defaced with similar names, and worse. He and his parents say they reported the abuse, and yet it continued. Finally, in 10th grade, he was taunted in a locker room by a naked student rubbing against him. In 2005 the Patterson family sued Hudson Area Schools under Title IX, the Equal Opportunity in Education Act, using the sexually tinged bullying as the basis for a sexual harassment lawsuit. The district planned to appeal.

**State: MN**

**Public Entity: Mille Lacs County**

**Type of Entity: County**

**Settlement: \$ 700,000**

**Date of Loss: 11/25/2005**

**Date of Verdict/Settlement: 9/22/2007**

**Facts:**

18-year old Brandon Brown suffered a head injury when he lost control of his mother's car and ran off the road on Nov. 25, 2005. He was arrested at his grandmother's house on an unrelated warrant and jailed. He died of acute bacterial meningitis associated with a skull fracture from the accident. His mother sued the county and several jail employees stating they deprived her son of his civil rights by rebuffing his requests for treatment. The federal lawsuit, filed in US District Court in Minneapolis, stated that for days Brown pleaded with Mille Lacs County jail employees to let him see a doctor. But by the time they relented, it was too late. On 9/22/07 the county agreed to pay \$700,000 to settle the federal lawsuit.

**State: MN**

**Public Entity: Rochester City Lines**

**Type of Entity: City**

**Settlement: \$ 550,000**

**Date of Loss: 8/22/2006**

**Date of Verdict/Settlement: 11/20/2007**

**Facts:**

The family of Amanda Carlson, a 23-year-old Rochester woman, brought a lawsuit against the city, after she was killed by a city bus as she crossed a street in 2006. The suit stated that Carlson was killed on Aug. 22, 2006, as she crossed South Broadway at Ninth Street on her inline skates. She had the walk signal and was hit by a Rochester City Lines bus driven by John Thomas Huston. At the time, Huston was charged with failing to stop for a red light, speeding, and careless driving and the charges were termed as petty misdemeanors. After his guilty plea, records show that he was sentenced to 90 days in jail with credit for any time served. The lawsuit, brought by the girl's father, Larry Carlson, reached a settlement, ordering Rochester City Lines to pay \$550,000. Sources stated that the money is to be paid by the League of Minnesota Cities Insurance Trust.

**State: MN**

**Public Entity: Golden Valley**

**Type of Entity: City**

**Settlement: \$ 1,100,000**

**Date of Loss: 4/2/2005**

**Date of Verdict/Settlement: 1/23/2008**

**Facts:**

Excessive Force: (Jan-23-08) Al Hixon, a man who was chased and pepper sprayed after being mistaken for a bank robber, brought a lawsuit against the city of Golden Valley, alleging officers used excessive force during the incident. On April 2, 2005, Hixon was changing oil at a gas station when a nearby bank was robbed, and the pursuit followed. Hixon is black, and 911 transcriptions show officers were told the bank robbery suspect was white. A federal jury in St. Paul had previously awarded Hixon \$778,000 in compensatory and punitive damages, and a judge had refused the city's request for a new trial. As part of a settlement reached, the city agreed to pay Hixon \$1.1 million to resolve the excessive force lawsuit. The city did not admit any liability as part of the settlement, but stated that it wished to avoid the risks and costs of protracted litigation.

**State: MN**

**Public Entity: State of Minnesota**

**Type of Entity: State**

**Settlement: \$ 25,000,000**

**Date of Loss: 8/1/2007**

**Date of Verdict/Settlement: 4/1/2009**

**Facts:**

Minnesota reached final settlements with all 179 eligible victims of the 8/1/2007 interstate 35 bridge collapse in Minneapolis. Settlements ranged from \$4,500 to each of five survivors to more than \$2.2 million for a woman who required extensive therapy for brain damage. Five other settlements were over \$1 million. The attorney who led the court-appointed panel administering the state's \$36.6 million compensation fund, said settlements covered both survivors of the collapse and family members of those killed. The bridge collapse during the evening rush hour killed 13 people and injured 145. The NTSB concluded that the bridge collapsed because a crucial steel gusset plate connecting bridge beams was half as thick as it should have been due to a 1960s design flaw. A group of 117 survivors and families of victims dispute that. They contend a beam buckled due to the heat that day, the heavy load of

resurfacing materials on the bridge, and poor maintenance. That theory gives them legal grounds for suing the consultants and contractors.

**State: MN**

**Public Entity: Minneapolis**

**Type of Entity: City**

**Verdict: \$ 1,800,000**

**Date of Loss: 9/20/2006**

**Date of Verdict/Settlement: 10/2/2010**

**Facts:**

Excessive Force: A jury awarded the family of an unarmed man killed by two Minneapolis police officers nearly \$1.8 million. The jury found the officers liable for excessive force when they shot and killed Dominic Felder in 2006 in response to a domestic dispute call. The trial, verdict and the amount of the award are unusual for a number of reasons. One reason is that the city usually settles officer misconduct lawsuits out of court. Data from the city attorney's office shows that between 2003 and the fall of 2009, the city settled 84 percent of police conduct lawsuits. The data also shows that the city won all 57 of the officer conduct suits it fought in court. The Felder verdict ended the city's seven-year-long winning streak. Jurors punctuated their decision by awarding Felder's family slightly more than \$1 million for their loss, and awarded punitive damages of \$800,000.

**State: MO**

**Public Entity: Arnold**

**Type of Entity: City**

**Settlement: \$ 950,000**

**Date of Loss: 6/30/2005**

**Date of Verdict/Settlement: 4/11/2007**

**Facts:**

Wrongful Death: Kurt Hartzell hung himself in the Arnold jail June 30, 2005, leading his father and nine-year-old son to sue the city for wrongful death. The suit alleged the city was negligent in the care offered at the jail and that though Hartzell had been placed on suicide watch in a cell monitored by video cameras, jail employees failed to prevent him from committing suicide. An investigation into the suicide led to the disciplining of several employees of the Arnold Police Department. The settlement would involve a \$950,000 compensation and Hartzell's father will receive 20% of the money after attorney fees, the other 80% will go to Kurt Hartzell II. Missouri Intergovernmental Risk Management Association, the insurance provider of the city of Arnold, will pay the settlement money, leaving the city's budget untouched.

**State: MO**

**Public Entity: Union County**

**Type of Entity: County**

**Settlement: \$ 780,000**

**Date of Loss: 5/10/2003**

**Date of Verdict/Settlement: 11/9/2007**

**Facts:**

Wrongful Death: Yolanda Padilla, the mother of Eddie Sinclair Jr., brought a wrongful death lawsuit against Union County, after the 17-year-old boy committed suicide in the Juvenile Detention Center in Elizabeth in 2003. The death of Eddie Sinclair Jr. made headlines because he died in an overcrowded, dirty detention center, which officials had repeatedly received warnings from the state to improve conditions. The teen hanged himself on May 10, 2003 by tying a bed sheet to an exposed and broken fire sprinkler state authorities had ordered removed months earlier. The suit named Trinitas Hospital and Correctional Health Services Inc. which treated Sinclair, and Siemens Building Technology Inc. and Firemasters, companies involved in

the installation of the fire sprinkler head. As part of a settlement reached, Union County agreed to pay \$780,000 to settle the case.

**State: MO**

**Public Entity: Lincoln County**

**Type of Entity: County**

**Settlement: \$ 2,025,000**

**Date of Loss: 10/23/2005**

**Date of Verdict/Settlement: 5/27/2008**

**Facts:**

Wrongful Death: Police shooting. \$2,025,000 Brent Teasley brought a civil lawsuit against Lincoln County and former deputy Nic Forler, alleging the wrongful death of Teasley's son, Tyler, then 22, who was shot and killed by then Lincoln County Sheriff's Deputy Forler on Oct. 23, 2005. Tyler was one of two men who were shot and killed following a traffic pursuit on Highway 47, west of Troy. Court papers identify the other victim as Michael Brown, then 23, of Troy. Brown succumbed to his injuries at the scene while Teasley passed away the following morning after being airlifted to St. John's Mercy Medical Center in Creve Coeur. Forler was charged with two counts of involuntary manslaughter by the Missouri Attorney General's office, after an investigative report was submitted by the Missouri State Highway Patrol. The family of Michael Brown also filed suit alleging wrongful death. Sources stated that the lawsuits had reached a settlement, in which Teasley will receive \$1,125,000. The Browns also reached an out-of-court settlement, in which they received approximately \$900,000.

**State: MO**

**Public Entity: Lee's Summit**

**Type of Entity: City**

**Verdict: \$ 16,000,000**

**Date of Loss: 1/1/1999**

**Date of Verdict/Settlement: 9/9/2008**

**Facts:**

Wrongful Conviction: A jury awarded \$16 million to Theodore White, a Missouri man who spent more than five years in prison on child molestation charges, for which he was acquitted in 2005. The jury awarded \$14 million in actual damages and \$2 million in punitive damages. The court ruled that the man's ex-wife and a police officer, who were planning to marry each other, conspired to violate his fair-trial rights. His lawyers argued that the police officer read but intentionally neglected to seize the alleged molestation victim's diary, which could have been critical in the man's defense. The police officer, who is still actively working for a Kansas police department, could be responsible for paying most of the judgment, but the city he works for will wind up with the bill after it settled its part of the case by agreeing to cover any judgment against the cop.

**State: MS**

**Public Entity: Hinds County**

**Type of Entity: County**

**Settlement: \$ 3,000,000**

**Date of Loss: 3/1/2007**

**Date of Verdict/Settlement: 4/11/2008**

**Facts:**

Michael Burnley Jr., a former detention-center inmate, brought a federal lawsuit against Hinds County, over a jail beating, which left him paralyzed from the assault. Burnley, 23 at the time of the incident, was paralyzed from the chest down from the beating he received from fellow inmate John Earl Kennedy, who apparently broke Burnley's cell-door lock and assaulted him in March 2007. Hinds County Sheriff Malcolm McMillin stated that the locks on cells at the detention center in Raymond were faulty and that the jail has been plagued with problems

related to poor construction and maintenance issues since it opened in 1994. The primary issue has been the malfunctioning locks and cell doors. Burnley was discovered lying on his cell floor in a pool of blood. Hinds County settled the federal lawsuit by agreeing to pay \$3 million to Burnley who had asked for \$15 million in the lawsuit filed in October 2007.

**State: MS**

**Public Entity: Jackson**

**Type of Entity: City**

**Verdict: \$ 500,000**

**Date of Loss: 6/11/2005**

**Date of Verdict/Settlement: 8/5/2009**

**Facts:**

Wrongful Death: The MS. Supreme Court affirmed a \$500,000 verdict against the City in a wrongful death case, Harris v. City of Jackson. A police officer, although not responding to an emergency, was driving at a high rate of speed. He entered an intersection without siren or warning lights and collided with a vehicle driven by 23 year old James Harris. Witnesses estimated that the police cruiser was going over 100 mph when it hit the victim's car. There was an expert report for lost wages of \$345,000. The total verdict of \$500,000 is the maximum recoverable against a governmental entity. On appeal, the City argued that it did not waive immunity under the Tort Claims Act because the police officer committed the crime of culpable-negligence manslaughter. The statute does not waive immunity when the employee's conduct constitutes a criminal offense. The Court rejected the argument, finding that the statute excludes "traffic offenses" from the criminal conduct immunity. The Court found that the officer's traffic violations were running a red light and speeding. Since these are traffic violations, the Court reasoned that the City waived immunity.

**State: NC**

**Public Entity: Charlotte**

**Type of Entity: City**

**Settlement: \$ 625,000**

**Date of Loss: 3/20/2008**

**Date of Verdict/Settlement: 8/5/2009**

**Facts:**

Taser Death: Darryl Turner (17) was killed on 3/20/08 during a confrontation with a Charlotte police officer outside a convenience store. The officer was found to have violated police procedure by holding the Taser trigger for 37 seconds, long enough to disrupt Turner's heart beat. The lawsuit was settled, and the family will receive the sum of \$625,000.

**State: NC**

**Public Entity: Charlotte**

**Type of Entity: City**

**Settlement: \$ 975,000**

**Date of Loss: 3/8/2008**

**Date of Verdict/Settlement: 12/7/2009**

**Facts:**

Kay Plyler, a 53 year old assistant town manager, was killed on 3/8/2008 when a tree in the city right of way fell onto her SUV. Plyler was driving with her 14-year-old daughter, Taylor. The two were in Charlotte getting their hair done for a ball later that night. The girl wasn't seriously injured, but was emotionally traumatized. The suit alleged that the tree had suffered up to 90 percent root decay and was a hazard to the public. The City of Charlotte settled for \$975, 000 on 12/7/2009.

**State: NE**  
**Public Entity: Omaha**                      **Type of Entity: City**  
**Settlement: \$ 779,500**  
**Date of Loss: 12/16/1999**  
**Date of Verdict/Settlement: 7/16/2007**

**Facts:**

Georgette Tadros filed a civil lawsuit against the City of Omaha after being hit by a pickup in a faulty crosswalk on 12/16/99. She blamed the city, claiming that the pedestrian signal didn't allow enough time to cross. The settlement included a cash payout of \$1 million by the Douglas County District Court in 2005. The trial court found that Tadros was 20-percent negligent in stepping off the median and into traffic, that Bowley (the driver) was 30-percent negligent in failing to keep a proper lookout and exercise due care to avoid colliding with Tadros, and that the City was 50-percent negligent in its timing of the "walk" signal. The court found that Tadros suffered total economic damages in the amount of \$1,258,999.81 and total noneconomic damages in the amount of \$300,000. The high court ruled that the county court should have subtracted from the city's judgment an amount equal to the pickup driver's portion of the blame. The Nebraska Supreme Court decreased the court judgment against the city to \$779,500.

**State: New York City**  
**Public Entity: New York City**                      **Type of Entity: City**  
**Settlement: \$ 1,500,000**  
**Date of Loss: 10/15/2003**  
**Date of Verdict/Settlement: 4/9/2008**

**Facts:**

Wrongful Death: The family of Pio Canini brought a wrongful death lawsuit against the city of New York, after the 52-year-old Clifton resident died in the 2003 Staten Island Ferry crash. As part of a settlement reached, Canini's family received a \$1.5 million wrongful death payout with the city, resolving the case.

**State: NJ**  
**Public Entity: Orange**                      **Type of Entity: City**  
**Settlement: \$ 2,700,000**  
**Date of Loss: 4/11/1999**  
**Date of Verdict/Settlement: 7/1/2002**

**Facts:**

Earl Faison (27) was taken into custody on 4/11/1999 as part of a "frenzied" reaction to the shooting death of a police woman. While in custody, he suffered an asthma attack and died. Another man was subsequently convicted of the murder. The suit alleged the Orange police were negligent because they knew Faison was asthmatic and left behind his inhaler at the arrest scene. The case settled for \$2.7 million on 7/1/2002.

**State: NJ**  
**Public Entity: Newark**                      **Type of Entity: City**  
**Settlement: \$ 3,600,000**  
**Date of Loss:**  
**Date of Verdict/Settlement: 4/4/2007**

**Facts:**

In a lawsuit filed against the city of Newark by pedestrians who were injured during a police chase, the city agreed to pay a \$3.6 million compensation to resolve claims. Curtis Berry, 19, was paralyzed after being hit by a stolen sport utility vehicle that was being pursued by police. He will receive more than \$2 million, which will be paid to his mother, Violet Berry. Two other

women injured in the accident, Jessica Pemberton and Desiree Chester, will also each receive \$150,000. The accident took place when police had pursued three car thieves in a 10-minute, high-speed chase that ended when the SUV the thieves were driving swerved to avoid a compact car, but instead hit a group of pedestrians before running into a telephone pole.

**State: NJ**

**Public Entity: Camden County**

**Type of Entity: County**

**Settlement: \$ 4,000,000**

**Date of Loss: 1/27/2004**

**Date of Verdict/Settlement: 5/17/2007**

**Facts:**

65-year-old Joel Seidel of Cherry Hill was fatally beaten while being held in the Camden County Jail. His family filed suit against the Camden County Jail, Camden County Department of Corrections and the county itself, along with corrections officers. His daughters filed suit in 2004 after their father was found dead in his cell in the jail's mental health ward on Jan. 27, 2004. One of Seidel's cellmates, Marvin Lister, who was 35 at the time and had a history of violence while in custody, was accused of fatally choking, beating and stomping Seidel, but was found not guilty by reason of insanity. The suit stated the death was a result of jail overcrowding, inadequate observation of him while he was in custody, and a failure to move him to a hospital, psychiatric facility or his own cell. In a settlement the family will receive \$4 million as compensation. \$1 million of the settlement will be paid directly by Camden County, \$2.8 million will be paid by the county's insurer and \$200,000 will be paid by the jail contractors.

**State: NJ**

**Public Entity: Seaside Heights and Tom's River**

**Type of Entity: City**

**Settlement: \$ 5,700,000**

**Date of Loss: 4/9/2002**

**Date of Verdict/Settlement: 7/31/2007**

**Facts:**

Wrongful Deaths: Edward Lutes, a Seaside Heights Patrolman, used his MP-5 assault rifle to shoot and kill Toms River residents Gail Galliano, 49, her husband, Dominick, 51, and their son, Christopher, 25, along with two members of the Williams family, Gary, 48, and his wife, Tina, 46, on April 9, 2002. The surviving members of the Williams and the Gallianos families filed suit for the wrongful deaths of their family members. In a settlement reached, the two Toms River families, whose loved ones were murdered, received \$5.7 million in settlement with Seaside Heights, Toms River and retired Seaside Heights Police Chief James Costello. The three surviving children of the Williams family, whose parents were shot and killed by Lutes, will receive \$2.3 million from the Municipal Liability Joint Insurance Fund. Relatives of the second slain family, the Gallianos, will receive \$3.4 million.

**State: NJ**

**Public Entity: Deptford (City of)**

**Type of Entity: City**

**Settlement: \$ 2,800,000**

**Date of Loss: 4/1/2005**

**Date of Verdict/Settlement: 5/7/2008**

**Facts:**

The City of Deptford paid \$2.8 million to settle the claims of Sarah Donovan-Weingartner and her husband, Sean, who married two weeks before an accident in which a policeman responding to an emergency call hit her SUV in 2005. Officer William Taylor was speeding on Delsea Drive and broadsided Sarah Donovan-Weingartner, who lost her unborn child in the accident. Taylor was driving 64 miles per hour in a 40 mph zone.



**State: NJ**

**Public Entity: Newark**

**Type of Entity: City**

**Verdict: \$ 4,100,000**

**Date of Loss: 5/10/2000**

**Date of Verdict/Settlement: 5/29/2008**

**Facts:**

Wrongful Death: The family of Sohayla Massachi brought charges against the city of Newark after the Seton Hall student was killed by her ex-boyfriend because 9-1-1 personnel botched a call reporting the woman's abduction. An operator gave the wrong make and model of the car Sohayla was pulled into, and a dispatcher then failed to issue an alert for the vehicle. Massachi, 23, was abducted May 10, 2000, in South Orange in front of Seton Hall University by her ex-boyfriend Christopher Honrath, 24. He took her to his apartment, shot her in the head and killed himself. A jury determined that Massachi's estate was due \$5.5 million in damages. \$3 million of that amount was for wrongful death, \$2.5 million for pain and suffering, and \$12,000 for funeral expenses. The jury found Newark was 75% responsible, which amounts to \$4.1 million. Apart from the city, Seton Hall was found liable for 15% and the school's security firm, Argenbright Security Inc., was allocated 10% of the damages.

**State: NJ**

**Public Entity: Newark**

**Type of Entity: City**

**Settlement: \$ 5,800,000**

**Date of Loss: 10/24/2004**

**Date of Verdict/Settlement: 7/2/2008**

**Facts:**

Fatalities (3): Monique Hawkins, 39, Nicole Floyd, 34, and driver Gail Williams, 43, died after their Jeep Cherokee plunged off a 15-foot embankment at Raymond Boulevard in Newark, NJ. The families of Hawkins and Floyd received a share of a \$5.8 million settlement last year. Slater said he represented Floyd's estate. He also said to his knowledge, Williams' family did not file a lawsuit. At the time the three women drowned, there were no guardrails or barriers along that stretch of roadway. Several day after the accident, the city council passed a resolution recommending that barriers be installed in the quarter-mile area.

**State: NJ**

**Public Entity: Camden County**

**Type of Entity: County**

**Verdict: \$ 31,295,007**

**Date of Loss: 12/23/2004**

**Date of Verdict/Settlement: 10/17/2008**

**Facts:**

Amputation: A Camden County jury returned a unanimous verdict for \$31,295,007 to Nicolas M. Anderson against the County of Camden, New Jersey for their failure to repair a highway and guardrail that they knew were dangerous. On December 23, 2004, 18-year-old Nicholas M. Anderson was driving his car on Raritan Avenue near its intersection with Third Street in Waterford Township, Atco, NJ. A vehicle traveling the opposite direction entered Anderson's lane of traffic. When he swerved to the right to avoid a head-on collision, he went onto the shoulder which was approximately six inches lower than the highway. Being unable to swerve back onto the highway because of the drop, his car went out of control and hit the guardrail. Upon impact, the guardrail penetrated the driver's side door and severed Anderson's right leg. He also sustained major injuries to his left arm rendering it nearly unusable.

**State: NJ**  
**Public Entity: Newark**                      **Type of Entity: City**  
**Settlement: \$ 3,100,000**  
**Date of Loss: 3/21/2005**  
**Date of Verdict/Settlement: 4/21/2009**

**Facts:**

The family of Ceneida Zapata who died after her car plunged into the Passaic River in Newark will receive a \$3.1 million settlement from the city. Zapata, a 52-year-old Newark resident, died in March 2005 when she lost control of her 1989 Dodge Dynasty on Raymond Boulevard, then struck and killed pedestrian David Torre, 54, of East Orange, before dropping into the river. There were no barriers along the river where the accident occurred, although recommendations for them had been made after three women drowned five months earlier.

**State: NJ**  
**Public Entity: State of New Jersey**                      **Type of Entity: State**  
**Verdict: \$ 6,000,000**  
**Date of Loss: 7/4/2006**  
**Date of Verdict/Settlement: 10/28/2009**

**Facts:**

On October 28, 2009, a Hunterdon County, New Jersey jury rendered a \$6 million verdict in favor of Warren County resident Kenneth Matlock, who sustained severe and permanent injuries when a large, decayed tree limb fell from a tree onto his vehicle on Route 29 in Delaware Township, Hunterdon County on July 4, 2006.

**State: NJ**  
**Public Entity: New Jersey Transit Operations**                      **Type of Entity: Transit**  
**Verdict: \$ 500,000**  
**Date of Loss:**  
**Date of Verdict/Settlement: 12/14/2009**

**Facts:**

Thomas Comes, a New Jersey Transit employee who works as a conductor, was awarded \$500,000 in his lawsuit against NJ Transit Operations Inc. Comes alleged that he suffered brain damage after being exposed to toxic fumes while conducting a night-time Bergin Line run. He discovered flames, evacuated the passengers, then consulted with the train master but continued with the two hour run. He claimed that during that time he was exposed to the fumes which caused anoxia which in turn led to brain damage. He alleged he was not able to leave the train because the train master didn't order him to, and he didn't have the authority himself to return to the yard. The jury awarded \$749k in future wage loss damages and \$251k in past medical bills, but found both parties 50 percent negligent, so the award was reduced to \$500,000.

**State: NM**  
**Public Entity: Farmington**                      **Type of Entity: City**  
**Verdict: \$ 500,000**  
**Date of Loss: 7/17/2001**  
**Date of Verdict/Settlement: 8/17/2006**

**Facts:**

A federal district judge upheld his decision to award punitive damages against a Farmington police officer who shot two people in a pickup truck in 2001. Crystal DeYapp, 21, and Junior Juarez, 24, filed a memorandum to uphold the judge's decision to award the plaintiffs \$500,000

in punitive damages, federal court documents state. The compensation results from an incident in which both were shot by Farmington police officer Jerold Taft Tracy.

**State: NV**

**Public Entity: State of Nevada**

**Type of Entity: State**

**Settlement: \$ 1,450,000**

**Date of Loss: 2/19/2006**

**Date of Verdict/Settlement: 3/8/2008**

**Facts:**

The families of 14 individuals and three estates brought a lawsuit against the state of Nevada after an accident was caused by a Nevada Highway Patrol trooper that killed four people south of Las Vegas in on 2/19/2006. The trooper, traveling at 113 mph, slammed into a 1988 Cadillac carrying five passengers. The decedents, 21-year-old Victor De La Cruz-De Leon; 21-year-old Reymunda Lopez-Vazquez; 42-year-old Jose Sanchez Lopez; and 19-year-old Jose Roberto Mejia Lang were illegal immigrants from Mexico. The trooper pleaded guilty to five counts of reckless driving causing death or bodily damage. He received a one- to six-year prison sentence for each of the counts. State officials have recommended a payment of \$1.3 million to the 14 individuals and three estates to settle claims arising from the accident. In November 2007, the board paid \$150,000 to the parents of three of the victims. The new deal is on behalf of Victor De La Cruz-De Leon and would settle all remaining claims stemming from the crash.

**State: NY**

**Public Entity: Queens**

**Type of Entity: City**

**Settlement: \$ 3,000,000**

**Date of Loss: 12/26/2001**

**Date of Verdict/Settlement: 1/9/2007**

**Facts:**

During the morning of Dec. 26, 2001, plaintiff Lev Liberman, 74, retired, was walking on the Rockaway Boardwalk, in Arverne. Adjacent to the boardwalk was a vacant tract of land where a pack of five wild dogs lived with a homeless man. The dogs attacked Liberman. His ears were chewed off and he lost sight in both eyes. His lawsuit against the city settled for \$3 million in 2007.

**State: NY**

**Public Entity: New York**

**Type of Entity: City**

**Settlement: \$ 2,000,000**

**Date of Loss: 1/24/2004**

**Date of Verdict/Settlement: 5/23/2007**

**Facts:**

The parents of Timothy Stansbury, 19, filed a civil lawsuit against the city, after he was killed in a Brooklyn stairwell by a bullet fired by a police officer on Jan. 24, 2004. Officer Hallik opened a stairwell door; Officer Neri fired a single bullet from a 9-millimeter semiautomatic handgun. The bullet traveled through the open doorway into the stairwell and hit Stansbury, who was on his way up to cross the roof to get to another building. He was declared dead after the bullet penetrated the right side of his sternum, beside the web of blood vessels, nerves and muscle separating his top two ribs. In a settlement reached, the city of New York agreed to pay the parents \$2 million.

**State: NY**  
**Public Entity: New York**                      **Type of Entity: City**  
**Settlement: \$ 12,750,000**  
**Date of Loss: 12:00:00 AM**  
**Date of Verdict/Settlement: 6/1/2007**

**Facts:**

Lead Poisoning: A New York family whose 19 children experienced lead poisoning living in subsidized housing filed a lawsuit against the city, alleging that the city failed to inform them about the effects of lead poisoning. Rachelle Scott's two children, three siblings and 14 nieces and nephews suffered permanent damage from lead poisoning.

**State: NY**  
**Public Entity: Long Island**                      **Type of Entity: City**  
**Settlement: \$ 1,250,000**  
**Date of Loss: 4/1/2002**  
**Date of Verdict/Settlement: 8/4/2007**

**Facts:**

Loc Thi Protzmann sued the city of Long Island after she sustained injuries when she drove into an Atlantic Ave. pothole. She charged the city with being negligent for failing to maintain the street, which she claimed was in a holey, broken, jagged, uneven, depressed, and trap-like condition. Protzmann, then 56, was driving west on Atlantic Ave. in April 2002 when her car's front right tire was engulfed by a gaping pothole. The suit stated that a ruptured sewer pipe triggered the street collapse. A city road-repair foreman testified that it was properly fixed about two months before the accident, but Protzmann's lawyer contended the repair job was shoddy, leading to the accident. Protzmann claimed the accident caused back and neck injuries that required surgery. The city argued that Protzmann had a history of injury-inducing incidents but agreed to pay her \$1.25 million after the trial got under way.

**State: NY**  
**Public Entity: New York**                      **Type of Entity: City**  
**Settlement: \$ 5,000,000**  
**Date of Loss: 3/1/2005**  
**Date of Verdict/Settlement: 9/4/2007**

**Facts:**

Amputation: Maria Noto brought a lawsuit against the city of New York, after a city sanitation driver Tommy Puma ignored safety rules and backed his salt spreader up a Queens street, crushing the lady under the wheels and dragging her 40 feet. As a result of the accident, Noto lost her leg. Noto reached a \$5 million settlement with the city in May 2007.

**State: NY**  
**Public Entity: Warren County**                      **Type of Entity: County**  
**Settlement: \$ 10,000,000**  
**Date of Loss: 7/7/2005**  
**Date of Verdict/Settlement: 10/4/2007**

**Facts:**

Amputation: Philip Cote brought a lawsuit against Warren County after he was injured in a motorcycle accident on July 7, 2005, when Cote's motorcycle collided with a UPS truck. Cote claimed that as a result of the crash, he sustained horrific injuries, including a metal rod in his leg, which stops him from being able to perform simple chores. He also lost one arm, which has come in the way of his finding a sustainable job. As part of a settlement reached, Cote was

awarded a \$10 million civil settlement, making him the recipient of the largest civil court payout in Warren County history.

**State: NY**

**Public Entity: MTA New York**

**Type of Entity: Transit**

**Settlement: \$ 6,130,000**

**Date of Loss: 6/1/1998**

**Date of Verdict/Settlement: 12/24/2007**

**Facts:**

56-year-old Shelton Stewart, a former New York doorman who slipped on a pile of pigeon droppings on a subway station's stairs in 1998, was awarded \$6.13 million in compensation. The trial took three weeks, but the jury took less than a day to award Stewart \$7.67 million in damages. He'll get 80 percent of that, or \$6,130,000, because he was found 20 percent liable for failing to avoid the poop pile the second time around. The suit claimed that the doorman was left permanently disabled after falling down some subway stairs. The city was accused of knowing the potential hazard of the droppings, yet choosing to do nothing about it. City officials claim that the city plans to appeal.

**State: NY**

**Public Entity: Rochester**

**Type of Entity: City**

**Settlement: \$ 500,000**

**Date of Loss: 10/1/2005**

**Date of Verdict/Settlement: 1/1/2008**

**Facts:**

Wrongful Death: Cherese Dukes, the widow of Shawn Dukes, brought a wrongful death lawsuit against the city, following her husband's death while in custody of Rochester Police.

**State: NY**

**Public Entity: Niagara-Wheatfield High School**

**Type of Entity: School District**

**Settlement: \$ 1,500,000**

**Date of Loss: 10/21/2002**

**Date of Verdict/Settlement: 1/22/2008**

**Facts:**

Samantha Taglienti, a Niagara-Wheatfield High School varsity swimmer, struck her forehead on the springboard doing a back flip during a varsity swim team practice Oct. 21, 2002. As a result of the accident, she suffered long-lasting headaches and other ailments. The suit asserted that Samantha, a junior at the time, was pressured into diving for the team by her coach despite her parents' prohibition of competitive diving. Samantha swam the butterfly and individual medley events, but wasn't a trained diver. The suit charged that Niagara-Wheatfield didn't have a qualified diving coach. Sources close to the case stated that as part of a settlement reached during a Niagara County Court trial, the school agreed to resolve the lawsuit claiming \$1.5 million in damages, with an undisclosed payout.

**State: NY**

**Public Entity: Brooklyn**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 11/5/2004**

**Date of Verdict/Settlement: 5/6/2008**

**Facts:**

Mitchi Cunningham, a Brooklyn straphanger, brought a lawsuit against the city, alleging that he suffered severe injuries after he was beaten by a cop on a city train on 11/5/04. Cunningham

and two friends were heading home after seeing a movie, when one of the friends was told by the train's motorman to put out a cigarette. The trio walked through the cars to the back of the train, where the two friends started rapping. Court documents reveal that Officer Marcus Rollins then boarded the car and ordered the three to get off the train. The confrontation took place when the group refused to leave the station and were pepper-sprayed by Rollins. Cunningham stated that he had retreated by then, but he was attacked when he returned to ask Rollins for his badge number. Sources stated that as a result of the beating, Cunningham underwent neurosurgery to relieve swelling inside his skull. He also suffered permanent loss of his sense of smell as a result of the clubbing. As part of a settlement reached, the city agreed to pay \$1 million to resolve the personal injury claim.

**State: NY**

**Public Entity: New York**

**Type of Entity: City**

**Settlement: \$ 1,375,000**

**Date of Loss: 10/15/2003**

**Date of Verdict/Settlement: 5/14/2008**

**Facts:**

Wrongful Death: Osserritta Robinson, the widow of Louis Robinson, brought a wrongful death lawsuit against the city of New York, after her husband died in the 10/15/2003 Staten Island Ferry crash. Robinson was one of 11 people killed when the ferry Andrew J. Barberi crashed into a pier near the Staten Island terminal. The city of New York agreed to pay Osserritta Robinson \$1.375 million, resolving the wrongful death claims filed in Brooklyn federal court.

**State: NY**

**Public Entity: New York City**

**Type of Entity: City**

**Settlement: \$ 8,700,000**

**Date of Loss: 10/15/2003**

**Date of Verdict/Settlement: 8/25/2008**

**Facts:**

Fatality: Katherine Healy, the widow of John Healy, one of 11 people who died in the 2003 Staten Island Ferry crash, won an \$8.7 million in her wrongful death lawsuit against the city. She was angered that she never received an apology from Mayor Michael Bloomberg and that she was forced to pay for her husband's autopsy report. The case settled shortly before trial was scheduled to begin. Assistant Capt. Richard Smith, who was at the controls, blacked out. Smith said he'd been extremely fatigued and was on painkillers. Capt. Michael Gansas was in the other pilothouse at the opposite end of the boat. Smith, who pleaded guilty to negligent manslaughter and lying to investigators, was sentenced to 18 months in prison.

**State: NY**

**Public Entity: New York City**

**Type of Entity: City**

**Verdict: \$ 18,300,000**

**Date of Loss: 10/15/2003**

**Date of Verdict/Settlement: 9/13/2008**

**Facts:**

Quadriplegia: James McMillian sued the City of New York on a negligence theory for the injuries and damages that he sustained in the 2003 Staten Island Ferry crash. McMillam, age 44, was left a quadriplegic as a direct result of the October 15, 2003, accident of the Andrew J. Barberi. Trial resulted in a plaintiff's verdict for \$23 million. On 9/17/08 a judge reduced the verdict to \$18.3 million.

**State: NY**

**Public Entity: MTA New York**

**Type of Entity: Transit**

**Verdict: \$ 2,336,713**

**Date of Loss: 4/26/2006**

**Date of Verdict/Settlement: 2/17/2009**

**Facts:**

On 2/17/09 a Manhattan jury awarded \$2.33 million to Dustin Dibble, who lost his leg after drunkenly stumbling onto the path of an oncoming subway train. The jury found that Dibble was 35% responsible for his own injuries and damages, which reduced the award "from \$3,594,943 to \$2,336,713." In this case, the jury did not absolve Dibble of fault, but it did apparently buy into arguments that the train conductor was trained to stop the train, and had time to do so, when he saw him on the tracks. In July 2010 an appellate court reversed the award in its entirety. Dibble plans to appeal further. To do that, though, under CPLR 5602, he will have the very difficult burden of showing that an important question of law should be reviewed and decided upon by New York's highest court, the Court of Appeals.

**State: NY**

**Public Entity: MTA New York**

**Type of Entity: Transit**

**Verdict: \$ 7,000,000**

**Date of Loss: 12/2/2002**

**Date of Verdict/Settlement: 3/1/2009**

**Facts:**

Amputation: In March, 2009 a jury awarded James Sanders \$7 million after a subway train struck him when he stumbled onto the tracks on December 12, 2002. The jury found him to be 30 percent culpable. His right leg had to be amputated and he also lost an eye. He fell onto the tracks as a subway car in Brooklyn was coming into the station at about 15 mph. The jury was also apprised of the facts that Sanders had been returning from methadone treatment and had drunk pure rum before entering the station (a fact he initially denied).

**State: NY**

**Public Entity: MTA New York**

**Type of Entity: Transit**

**Verdict: \$ 27,500,000**

**Date of Loss: 11/4/2005**

**Date of Verdict/Settlement: 4/27/2009**

**Facts:**

Amputation: A 45-year old woman who was hit by a bus and subsequently underwent amputation of her left leg has been awarded a \$27.5 million settlement by a jury. Gloria Aguilar, 45, who had to have her leg amputated at the groin and has worn a prosthetic leg ever since. The verdict is on appeal.

**State: NY**

**Public Entity: Baldwin Union Free School District**

**Type of Entity: School District**

**Verdict: \$ 5,250,000**

**Date of Loss: 6/30/2004**

**Date of Verdict/Settlement: 5/14/2009**

**Facts:**

Wrongful Termination: Cheryl Farb worked at the Baldwin Middle School during the 2002/03 and 2003/04 school years until she was terminated. During her time at the school, she filed a complaint against the principal for making sexual and racial comments about both her and students at the school. A jury found that Principal James Brown retaliated against Farb for filing

a harassment complaint against him by issuing her poor evaluations and fabricating reasons to take disciplinary action against her. The jury also found that Baldwin School District failed to properly train its employees about sexual harassment; failed to keep Farb's complaint confidential; and failed to oversee Principal Brown's supervision of Farb after she filed her complaint against him. Jurors awarded a total of \$5.25 million to Cheryl Farb and her husband (\$4 million in emotional damages and \$1 million in punitive damages awarded to Ms. Farb, as well as \$250,000 for loss of consortium to Farb's husband). The Court has yet to determine Farb's damages for economic losses and is expected to award a substantial additional amount.

**State: NY**

**Public Entity: Nassau County**

**Type of Entity: County**

**Verdict: \$ 19,600,000**

**Date of Loss: 3/11/2004**

**Date of Verdict/Settlement: 2/23/2010**

**Facts:**

**Amputation:** A man who lost a leg as a result of being struck down by a police car has been awarded just over \$19.6 million by the jury hearing his case. The award included \$3 million in punitive damages against Nassau County police officer Karl Snelders, who, allegedly drove onto a sidewalk and bowled over Thomas Hartmann, the suit's plaintiff, deliberately. Hartmann, who was reportedly being pursued on a harassment charge, claimed that the officer didn't stop after striking him, continuing forward so that one of the vehicle's rear wheels also struck him. The police officer testified that it appeared as Hartmann had a weapon, and threatened to shoot the officer. The jury found Snelders' actions excessive, and awarded in favor of Hartmann.

**State: NY**

**Public Entity: Pine Plains School District**

**Type of Entity: School District**

**Verdict: \$ 1,250,000**

**Date of Loss: 1/1/2005**

**Date of Verdict/Settlement: 3/13/2010**

**Facts:**

**Pine Plains School District, NY** A Pine Plains family was awarded \$1.25 million in damages after a jury found that the Pine Plains school district failed to adequately protect their son from racial harassment by his peers, a violation of the federal Civil Rights Act of 1964. The case, heard in U.S. District Court in White Plains, was filed by Henry and Cathleen Zeno, the parents of Anthony Zeno, who graduated from Stissing Mountain Senior High School in Pine Plains in 2008. The family had moved to Pine Plains from Long Island in 2005, and Anthony, who is dark-skinned and multi-racial, began attending high school in January of that year. Almost immediately, racial epithets and harassment started against Anthony. "The jury found that the school district was deliberately indifferent."

**State: NY**

**Public Entity: New York**

**Type of Entity: City**

**Settlement: \$ 33,000,000**

**Date of Loss: 10/4/2007**

**Date of Verdict/Settlement: 3/23/2010**

**Facts:**

**Strip Search:** A class action lawsuit alleging that women were forced to undergo gynecological exams in New York City jails has been settled for \$33 million. The lawsuit was filed on behalf of people who were arrested on misdemeanor drugs and weapons charges, jumping turnstiles, failing to pay child support, shoplifting and trespassing, and who subsequently underwent strip searches. The terms of the settlement would provide payments of \$1,800 and \$2,900 per



victim, depending on the number of people who respond and qualify. The two female lead plaintiffs will each receive \$20,000 for injury and suffering. The case included people arrested, but not convicted, between July 15, 1999, and Oct. 4, 2007. The court has already ruled that the practice violated the prisoners' constitutional rights.

**State: NY**

**Public Entity: Queens**

**Type of Entity: City**

**Settlement: \$ 750,000**

**Date of Loss: 12/26/2001**

**Date of Verdict/Settlement: 6/23/2010**

**Facts:**

Jun-23-2010 A woman mauled by a pack of wild dogs on a Queens boardwalk in 2001 won a \$750,000 settlement from the city Wednesday. Marlene Fils-Aime was jogging when she stopped to help an elderly man who was being mauled by a pack of wild dogs on Rockaway boardwalk on 12/26/2001. Fils-Aime said the city was to blame for leaving garbage in weed-choked lots around the boardwalk, creating a feeding ground for packs of bloodthirsty hellhounds. The dogs pounced on Fils-Aime when she came to the aid of Russian immigrant Lev Liberman, then 74. Liberman's ears were chewed off and he lost sight in both eyes. His lawsuit against the city settled for \$3 million in 2007. Fils-Aime suffered scarring under her left arm and has post-traumatic stress disorder. The attack occurred near Beach 68th Street in an area where residents repeatedly complained about roaming packs of dogs. The city took the five dogs off the street in the months prior to the Dec. 26, 2001 attack but returned them to their owner, a homeless man living near the boardwalk.

**State: NY**

**Public Entity: New York**

**Type of Entity: City**

**Settlement: \$ 7,150,000**

**Date of Loss: 11/25/2006**

**Date of Verdict/Settlement: 7/27/2010**

**Facts:**

Wrongful Death:: The City of New York agreed to pay \$7.15 million to settle a wrongful death civil suit lodged by the fiancée and pals of Sean Bell, the unarmed black groom gunned down by police on his wedding day, Nov 25, 2006. The settlement, approved by a Brooklyn federal magistrate, ended a four-year legal battle. The city will pay \$3.25 million to Sean Bell's family estate, \$3 million to Joseph Guzman, 35, who was shot 11 times in the incident, and \$900,000 to Trent Benefield, 27, who was shot three times.

**State: NY**

**Public Entity: Port Authority of New York and New Jersey**

**Type of Entity: City**

**Settlement: \$ 47,500,000**

**Date of Loss: 9/11/2001**

**Date of Verdict/Settlement: 10/18/2010**

**Facts:**

Port Authority of New York and New Jersey: New York, NY: Oct -18-10. Plaintiffs who allege they were injured or suffered illness in the response and cleanup of the September 11 terror attacks have reached a settlement with The Port Authority of New York and New Jersey . \$47.5 Million Settlement Approved for September 11 Plaintiffs. Judge Alvin K. Hellerstein signed an order last week providing preliminary approval to the \$47.5 million settlement, which must be approved by the Port Authority's board of commissioners. The agreement is another step forward in the effort to settle claims by some 10,000 plaintiffs. OCT-18-10: Judge OKs \$47.5 Million Settlement between Port Authority and 9/11 Plaintiffs.

**State: NY**

**Public Entity: MTA New York**

**Type of Entity: Transit**

**Verdict: \$ 1,800,000**

**Date of Loss: 1/1/2003**

**Date of Verdict/Settlement: 5/1/2009**

**Facts:**

In May 2009 Claude Williams was awarded \$1.8 million, according to court records, because he was hit by a New York City Transit bus in 2003.

**State: NY**

**Public Entity: New York**

**Type of Entity: City**

**Verdict: \$ 18,000,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 10/28/2010**

**Facts:**

Wrongful Conviction: A New York man who spent more than two decades in prison for rape and was later exonerated by DNA evidence won an \$18 million verdict against the City of New York, claiming it thwarted his efforts to obtain that evidence for years. Alan Newton was convicted in 1985 based largely on the testimony of eyewitnesses, even though a rape kit was used to collect a sperm sample from the victim. Although Newton's criminal defense attorney chose not to seek DNA testing for trial, Newton sought post-conviction access to the evidence beginning in 1988 and was denied. No formal settlement offers were made before or during the trial, although the city made a verbal offer of about \$1 million. The plaintiff's attorney believed the case was worth upwards of \$24 million. Jurors awarded \$18 million based on the failure to turn over the rape kit between Newton's formal request in 1994 and 2005. In 1994 he made a formal request for the rape kit evidence for testing, but the kit was not located until 2005, when it was found in a police department warehouse. When the evidence was tested, the DNA from the sample did not match Newton. He was released from prison in 2006.

**State: OH**

**Public Entity: Wayne County**

**Type of Entity: County**

**Settlement: \$ 500,000**

**Date of Loss: 5/1/2003**

**Date of Verdict/Settlement: 9/6/2007**

**Facts:**

Wrongful Death: Joel Hollenbaugh, 46, was found dead in his Wayne County Jail cell after he had been arrested in May 2003 on suspicion of drunken driving following a car crash. He was brought to the jail at about 6:30 p.m. and was complaining of chest pains at that time. At the jail, he was in and out of consciousness. At one point; jail officials picked him up and carried him to a Breathalyzer machine to gauge his level of drunkenness. Hollenbaugh was unable to supply a breath sample. Despite his pleas to go to the hospital, Hollenbaugh was placed in a cell, and despite pleas from cellmates concerned over his condition, no one checked on Hollenbaugh after 10 p.m. He was found dead the next morning at about 7 a.m. Medical officials say he died of a heart attack at about 11:30 the night before. In a settlement reached, the county agreed to pay the estate of Hollenbaugh \$500,000 and the city of Wooster will pay another \$200,000 under the agreement reached in US District Court in Cleveland. The \$700,000 civil lawsuit settlement ended four years of litigation that also included one jail official being put on trial for dereliction of duty.

**State: OH**

**Public Entity: Cleveland**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 8/27/2002**

**Date of Verdict/Settlement: 2/8/2008**

**Facts:**

Wrongful Death: Harriet Green, the mother of a teenager, brought a wrongful death lawsuit against the city after her son was shot and killed by police. Ricardo Mason, 16, was shot on Aug. 27, 2002, while riding in a stolen car. Two officers in a cruiser chased the stolen car into an alley, where it hit a fence post. Officer Matthew Baeppler shot the driver Malcolm Hoyle, 16, in the face. Officer Robert Taylor, who was struck by the car as it backed up, shot and killed Mason as he fired on Hoyle. The city, not wanting to leave the officers exposed to potential personal liability, agreed to reach a settlement with Harriet Green, resolving the wrongful death lawsuit. As part of the settlement agreement, the city agreed to pay \$1 million, not admitting to any wrongdoing. City officials stated that the two officers had been cleared of wrongdoing by a grand jury. Hoyle, who survived his gunshot wound, was sentenced to five years probation in 2003 on a charge of involuntary manslaughter. The city continues to believe the officers' version of how the shooting occurred.

**State: OH**

**Public Entity: Bazetta Township**

**Type of Entity: City**

**Settlement: \$ 1,180,000**

**Date of Loss: 1/11/2001**

**Date of Verdict/Settlement: 3/25/2008**

**Facts:**

Wrongful Death: The family of Joseph Robertson brought a wrongful death lawsuit against Bazetta Township after Robertson died in an accident involving the highway patrol. The 18 year old was killed when his car was struck by a state patrol cruiser in Bazetta Township. The court found that trooper Lee Sredniawa failed to follow pursuit policy when he ran a red light. Sources close to the case stated that as part of a settlement reached between the two parties, the township agreed to pay the family of Joseph Robertson \$1.18 million to resolve the wrongful death allegations.

**State: OH**

**Public Entity: State of Ohio**

**Type of Entity: State**

**Settlement: \$ 1,100,000**

**Date of Loss: 9/28/2006**

**Date of Verdict/Settlement: 3/25/2008**

**Facts:**

Wrongful Death: The family of Lori Smith brought a wrongful death lawsuit against the state of Ohio, after the Ohio woman and two Highway Patrol troopers were killed in a fiery crash. The suit claimed that a highway patrol car collided with Smith's pickup truck in Gallapoli on 9/28/06 2006, killing Smith, Trooper Joshua Risner and Sgt. Dale Holcomb. The suit alleged that Risner was speeding and had improperly activated his emergency lights just before the crash. The state of Ohio has agreed to pay Smith's family \$1.1 million to resolve allegations.

**State: OR**

**Public Entity: Portland**

**Type of Entity: City**

**Settlement: \$ 500,000**

**Date of Loss: 11/2/2005**

**Date of Verdict/Settlement: 11/9/2007**

**Facts:**

Wrongful Death: The Portland Police Bureau agreed to the largest reported settlement involving a Portland police shooting, \$500,000, in the wrongful death case of Raymond Gwerder who was shot to death by Portland Police officer Leo Besner on November 4, 2005. Raymond Gwerder, 30, was "drunk and despondent," holding a handgun in the backyard of a friend's house where he had been staying, when a police officer trained in crisis intervention managed to get through to his cell phone. As Gwerder was talking with the negotiator, and about to go inside the house, he was fatally shot in the back without warning by police sniper Leo Besner. At the time of his death, Ray Gwerder, 30, was completing his final courses needed to earn a bachelor's Degree in Biology.

**State: SC**

**Public Entity: Goose Creek**

**Type of Entity: City**

**Settlement: \$ 1,600,000**

**Date of Loss: 11/5/2003**

**Date of Verdict/Settlement: 7/10/2006**

**Facts:**

Civil Rights: the November 5, 2003 police raid of Stratford High School was recorded by both the school's surveillance cameras and a police camera. The tapes show students as young as 14 forced to the ground as officers in SWAT team uniforms and bulletproof vests lead a drug dog to search their book bags. Only a few students were restrained. The ACLU represented 20 of the nearly 120 students caught up in the raid. The raid was authorized based on the principal's suspicion that several students were dealing marijuana, but was not organized or planned by him or the school's administration. No drugs or weapons were found during the raid and no charges were filed. However, evidence of drug residue was found among several students. On July 10, 2006, a settlement was reached that awarded \$1.6 million to the students in the law suit, of which \$1.2 million was divided among the students, and the remaining \$400,000 to be used in legal fees.

**State: SC**

**Public Entity: South Carolina State Ports Authority**

**Type of Entity: State**

**Settlement: \$ 13,200,000**

**Date of Loss: 11/22/2004**

**Date of Verdict/Settlement: 10/1/2007**

**Facts:**

An empty shipping container broke loose in mid-air, plunged 50 feet and bounced onto plaintiff's parked Ford Explorer. Though he survived, family members say Clarkin's injuries were both physical and mental. His legs, back and neurological system were all impaired after the incident. Clarkin's injury was the fourth time in five months that year that a dockworker had been injured or killed at a state-run port terminal. In a settlement reached, Michael Clarkin and his family settled their suit for \$13.2 million, making it the largest personal injury settlement in state history. SPA spokespersons claimed that the equipment failure was blamed on a design defect that was corrected later.

**State: SC**

**Public Entity: Beaufort County School District**

**Type of Entity: School District**

**Settlement: \$ 5,100,000**

**Date of Loss: 1/1/2002**

**Date of Verdict/Settlement: 5/6/2008**

**Facts:**

Molestation: Beaufort County, SC: (May-06-08) an eighth victim brought a lawsuit against the Beaufort County School District, stating that he was molested by former teacher Philip Underwood-Sheppard. In a recent announcement made by the school's spokespersons, the school stated that it has agreed to pay the victim over \$500,000 to resolve the claims. The board stated that the money will come out of the school district's budget, which will not require a tax increase. Court papers reveal that the victim sued the district in October 2007, and rejected a \$300,000 settlement offer from the district in February 2008. District officials said that they decided to settle rather than risk the costs of a protracted trial. They said that Underwood-Sheppard, a former music teacher at Coosa Elementary School, received a 25 years sentence in 2003 after pleading guilty to molesting at least nine students between the ages of 6 and 13 from 1999 to 2002. Court papers show that the County Council finalized a \$4.6 million settlement in August 2007 for six victims, and a seventh case was settled and paid by district liability insurers.

**State: TX**

**Public Entity: Houston**

**Type of Entity: City**

**Settlement: \$ 1,500,000**

**Date of Loss: 11/1/2003**

**Date of Verdict/Settlement: 5/29/2008**

**Facts:**

Wrongful Death: The parents of Eli Eloy Escobar Jr., a 14-year-old unarmed teenager, brought a wrongful death lawsuit against the city of Houston, after their son was shot to death in 2003 by a rookie police officer. As part of a settlement reached in the case, the city agreed to pay the family \$1.5 million to resolve the wrongful death allegations.

**State: TX**

**Public Entity: Dallas County**

**Type of Entity: County**

**Verdict: \$ 900,000**

**Date of Loss: 1/1/2004**

**Date of Verdict/Settlement: 8/27/2008**

**Facts:**

AUG-27-2008 A jury awarded a plaintiff nearly \$900,000 because of inadequate healthcare provided by the Dallas County Jail. The jury found that Stanley Shepherd's constitutional rights were violated when he was denied basic medical care while in the Lew Sterrett Justice Center on burglary and drug charges. Mr. Shepherd, 51, who testified during the trial, entered the jail in October 2003 on a burglary and drug charge and suffered the stroke in January 2004. In the seven weeks before his stroke, he received little or no treatment or medication despite high blood pressure readings. He told the jail staff about his blood pressure medication upon being booked into the jail, the suit said. He was taken to Parkland Memorial Hospital almost an hour after he was found on the floor of his cell. The charges against Mr. Shepherd were later dismissed. He uses a wheelchair and is paralyzed on his left side. He can only eat soft foods; his speech, hearing and sight are impaired; he is impotent and suffers from depression; and his wife must help him with everyday activities.

**State: TX**

**Public Entity: Bexar County**

**Type of Entity: County**

**Settlement: \$ 5,500,000**

**Date of Loss: 12:00:00 AM**

**Date of Verdict/Settlement: 12/8/2010**

**Facts:**

Strip Search: A \$5.5 million settlement has been reached in the class action lawsuit against Bexar County Jail over illegal strip searches. Filed in 2005, the suit alleged that the county's policy "to force those charged with minor crimes to undergo the indignities of a strip search upon detention is not only clearly illegal, but is insensitive and unnecessary." Thousands of people may be eligible to share in the settlement, the terms of which are posted at [Bexarcountrystripsearch.com](http://Bexarcountrystripsearch.com). Claimants must have been booked into the Bexar County Correctional Facility between November 15, 2005 and April 9, 2009 to be eligible to join the class. A county spokesperson, Laura Jesse told local media that as many as 30,000 people could qualify for some sort of payment. Anyone charged on a felony offense, who went into the facility after being convicted of a crime, or who entered the facility but was not strip searched does not qualify to enter the class.

**State: TX**

**Public Entity: Austin**

**Type of Entity: City**

**Settlement: \$ 9,000,000**

**Date of Loss: 10/24/1988**

**Date of Verdict/Settlement:**

**Facts:**

Wrongful Conviction: Christopher Ochoa and Richard Danziger were indicted for murder in Travis County, Texas in 1989. In return for the State's agreement not to pursue the death penalty against him, Ochoa agreed to plead guilty and give incriminating testimony against Danziger. A jury convicted Danziger at trial and sentenced him to life in prison. In 1996, someone else confessed to the murder and DNA evidence exonerated both Ochoa and Danziger. The charges against them were dismissed based on actual innocence, and they were released in February 2002. By that time, each had been imprisoned for 12 years. In the interim, Danziger had been assaulted by another inmate, leaving him with a severe brain injury. Ochoa brought civil rights claims against the City of Austin in federal district court. Danziger received a \$9 million settlement from the city of Austin and also received a \$950,000 settlement from Travis County.

**State: UT**

**Public Entity: Utah D.O.T.**

**Type of Entity: State**

**Verdict: \$ 1,538,694**

**Date of Loss: 7/18/2006**

**Date of Verdict/Settlement: 8/29/2009**

**Facts:**

A District Court jury awarded nearly \$4.4 million to the widow and children of a UT man who suffered fatal injuries when he tried to swerve around backed-up traffic and hit other vehicles. The family of Richard Kunzler claimed that the state Department of Transportation and a subcontractor working on a bridge reconstruction project failed to post appropriate signs warning motorists about traffic delays. Vehicles were backing up, and drivers were given insufficient warning about the construction. Kunzler came over the crest of a hill on July 18, 2006, the driver ahead of him saw stopped cars and slammed on his brakes. Kunzler tried to swerve and crashed; he died 13 days later. Jurors determined damages totaling \$4,396,268. They awarded \$2,896,268 for economic damages and \$375,000 each for Kunzler's wife and

three children. They found that Kunzler was 20 percent negligent, meaning about \$879,254 will be deducted from the total award. UDOT was found 35 percent responsible (\$1,538,694), and Staker & Parson Cos. was found 45 percent responsible. UDOT's share will be reduced to about \$500,000 under a law that caps damages that can be assessed against state agencies.

**State: VA**

**Public Entity: Hampton Roads**

**Type of Entity: City**

**Settlement: \$ 3,000,000**

**Date of Loss: 2/1/2002**

**Date of Verdict/Settlement: 3/28/2007**

**Facts:**

Fatima Laila Fortmuller sued Hampton Roads Transit (HRT) after a crash that happened in the Hampton Roads Bridge Tunnel in 2002. Fortmuller was stuck in typical tunnel traffic the day of the accident in February 2002, when a HRT bus slammed into the back of her Dodge Neon, sending her car into an SUV. She suffered a closed brain injury. After the accident, Fortmuller suffered from headaches, loss of smell, sleeplessness, and short term memory. Hampton Roads reached a settlement with Fortmuller, giving her \$3 million as compensation.

**State: VA**

**Public Entity: Alexandria**

**Type of Entity: City**

**Settlement: \$ 1,100,000**

**Date of Loss: 2/25/2006**

**Date of Verdict/Settlement: 6/13/2007**

**Facts:**

Wrongful Death: 18-year-old Aaron Brown was shot and killed by Alexandria police officer Carl Stowe in the parking lot of an IHOP on 2/25/06..Stowe had been working off-duty at an IHOP as a security guard when he chased Brown and his friends out of the restaurant for not paying their bill. There were two accounts of the incident. One noted the other passengers in the Jeep said Stowe fired from a distance in an attempt to keep the vehicle from leaving the parking lot. The second account, supported by other witnesses, said that the officer fired after the vehicle swerved toward him and he felt threatened. Stowe did not face criminal charges. After voluntary mediation, a settlement was reached in which the Alexandria City Council agreed to pay \$1.1 million to the Browns. As part of the settlement agreement, Police Chief David Baker agreed to institute policy changes to make it clear that officers should not fire their weapons at moving vehicles, thereby helping prevent anything like this from occurring again.

**State: VA**

**Public Entity: Harrison County**

**Type of Entity: County**

**Settlement: \$ 3,500,000**

**Date of Loss: 2/1/2006**

**Date of Verdict/Settlement: 7/3/2007**

**Facts:**

Wrongful Death: Jessie Lee Williams died in the Harrison County jail in February 2006. His family filed a \$150 million wrongful death suit against the County and the City of Gulfport. The Harrison County Board of Supervisors announced a \$3.5 million settlement with Williams' estate. The county's insurance policy will cover \$1 million. The rest of the settlement will be funded by a bond issue. The county did not admit any wrongdoing while it agreed to the settlement, but claimed that it was in the interest of all parties and the taxpayers to settle the case.

**State: VA**  
**Public Entity: Norfolk**                      **Type of Entity: City**  
**Settlement: \$ 7,500,000**  
**Date of Loss: 12/15/2006**  
**Date of Verdict/Settlement: 2/6/2008**

**Facts:**

Brain Damage: The city agreed to pay \$7.5 million to settle a lawsuit brought by Renee D. Wilson on behalf of her son, Travis Dalton. Dalton was standing in the median on Brambleton Avenue near Posey Lane in December 2006 when he was struck by a city truck driven by a city employee. Dalton suffered serious brain injuries, and spent three months in the hospital following the wreck. visits. Doctors removed a portion of his skull to relieve pressure from swelling in his brain. His medical expenses exceeded \$329,000. Dalton, who is 21, now functions at the level of an 11-year-old. He had been on his way to a job interview when he was hit. Now he will never work, according to plaintiff's attorneys.

**State: VA**  
**Public Entity: State of Virginia**                      **Type of Entity: State**  
**Settlement: \$ 11,000,000**  
**Date of Loss: 4/16/2007**  
**Date of Verdict/Settlement: 6/17/2008**

**Facts:**

A Virginia Circuit Court has approved an \$11 million settlement for families of most of the victims in the Virginia Tech massacre. Families of 24 victims are set to receive \$100,000 each, the maximum allowed by Virginia's liability limit, while 18 people injured during the rampage will receive up to the \$100,000 maximum, based on injuries sustained. A \$1.9 million hardship fund is part of the settlement, from which families of those killed can seek additional money. Additionally, the settlement included attorney's fees and a fund for charities. The settlement is said to avoid a court battle over whether anyone but the gunman was to blame.

**State: WA**  
**Public Entity: Tacoma**                      **Type of Entity: City**  
**Settlement: \$ 750,000**  
**Date of Loss:**  
**Date of Verdict/Settlement: 5/19/2005**

**Facts:**

Sexual Harrassment: The city of Tacoma agreed to pay \$750,000 to a police detective who said she was sexually harassed by Police Chief David Brame, who killed his wife and himself two years ago. Mary Herrman said Brame tried to lure her into a threesome with him and his wife, Crystal, by suggesting she would be promoted if she complied. Herrman said she declined, but she received the promotion to detective anyway. The chief kept calling and pursuing her, and though others in the department knew of his actions, no one did anything about it, according to investigations conducted after the April 2003 killings. The settlement, approved by the Tacoma City Council, averted another lawsuit against the city stemming from the scandal.



**State: WA**

**Public Entity: Kennewick**

**Type of Entity: City**

**Settlement: \$ 1,000,000**

**Date of Loss: 7/13/2003**

**Date of Verdict/Settlement: 5/2/2007**

**Facts:**

Ken Rogers, a Washougal man, filed suit against the city after he was bitten by a police dog during a 2003 Kennewick police chase. He sued the city, Benton County, and officers alleging that his civil rights were violated and accused the agencies of unlawful imprisonment, false arrest, undue search and seizure and of failing to get him adequate medical treatment. The suit stemmed from a July 13, 2003, incident when a Kennewick police dog followed a wrong scent into a fenced back yard on West Victoria Street where Rogers was asleep. Believing Rogers was the suspect; the police dog latched onto the 54-year-old man and in the struggle bit him several times on the hand, back, neck and face. In a settlement reached, a federal jury awarded nearly \$1 million to Rogers as compensation.

**State: WA**

**Public Entity: Whatcom County**

**Type of Entity: County**

**Settlement: \$ 500,000**

**Date of Loss: 4/18/2002**

**Date of Verdict/Settlement: 6/5/2007**

**Facts:**

Nora and Michael Busby, parents of eight-year-old Michael Busby Jr., who was murdered in 2002 by a 16-year-old who was under the supervision of the county's juvenile probation department, filed a lawsuit against the county. In a settlement reached, Whatcom County officials have agreed to pay \$500,000. The county's insurance covers \$400,000 of the settlement and the rest will come from the county's self-insurance fund.

**State: WA**

**Public Entity: Washington State Department of Social and Health Services**

**Type of Entity: State**

**Settlement: \$ 6,200,000**

**Date of Loss:**

**Date of Verdict/Settlement: 6/7/2007**

**Facts:**

King County approved a \$6.2 million settlement for four siblings who were abused in foster care, making the settlement the largest of its kind in the state. The charges were against the state Department of Social and Health Services, which oversees foster care, alleging that the state acted negligently when it licensed Pearl Hall to be a foster mother nearly 20 years ago, and that it failed to monitor the home after the four kids were placed. The four siblings were severely abused by hall, whipped with switches, extension cords, shoes and boards during their five years in Hall's care. The abuse was discovered when one of the children, then 7, ran away and got help. Pearl Hall was convicted of a misdemeanor assault charge and died in 2004. Some DSHS workers raised concerns about Hall, but those concerns were brushed aside. The state renewed Hall's license repeatedly and allowed her to operate a day-care center. The lawsuit recounts 16 points at which the state should have realized something was wrong.

**State: WA**

**Public Entity: Washington State Department of Social and Health Services**

**Type of Entity: State**

**Settlement: \$ 2,500,000**

**Date of Loss: 6/1/2004**

**Date of Verdict/Settlement: 9/1/2007**

**Facts:**

Department of Social and Health Services Olympia: A lawsuit was brought against Eastern State Hospital at Medical Lake, alleging that a patient was raped by Guy M. Johnston, a nurse at the facility. Johnston was convicted for the June 2004 rape of the disabled Spokane woman, and is in prison. In a settlement reached, Eastern State Hospital, which is governed by the state Department of Social and Health Services, agreed to pay the woman \$2.5 million as compensation. Lawyers say the settlement includes trust and guardianship provisions for mental health treatment for the victim. The Spokane County Superior Court has approved the settlement, which will be paid by the state Department of Social and Health Services. The Department of Social and Health Services agreed to settle in advance of a jury trial that had been scheduled for October 2007.

**State: WA**

**Public Entity: State of Washington**

**Type of Entity: State**

**Settlement: \$ 2,500,000**

**Date of Loss:**

**Date of Verdict/Settlement: 10/8/2007**

**Facts:**

The Lower Elwha Klallam tribe brought a lawsuit against the state of Washington over reburying the remains of more than 330 ancestors. The suit claimed that the state was responsible for the failure of the Hood Canal Bridge grave yard project in Port Angeles, which in turn disrupted the graves. As part of a settlement reached in 2006, the tribe can rebury the remains of more than 330 ancestors. Most details of the agreement of the legal settlement had been reached between the tribe and public agencies in 2006, but motions to approve the settlement were signed recently by Thurston County Superior Court Judge Anne Hirsch. As part of the settlement, the state agreed to pay the tribe \$2.5 million. so far. It also agreed to remove leftover materials from partial construction at the building site.

**State: WA**

**Public Entity: Washington State Patrol**

**Type of Entity: State**

**Settlement: \$ 4,000,000**

**Date of Loss: 12/26/2004**

**Date of Verdict/Settlement: 11/6/2007**

**Facts:**

The family of Julia Terlinchamp brought charges against the Washington State Patrol, after a state trooper plowed his patrol car into Terlinchamp's car, leaving her seriously injured on 12/26/2004. The trooper's car came out of a side alley on Capitol Hill, T-boning her car. Terlinchamp suffered traumatic brain injuries and it was a challenge to talk, listen, and think. Washington State Patrol agreed to pay Julia roughly \$4 million to resolve the personal injury lawsuit.

**State: WA**

**Public Entity: Washington State Department of Corrections**

**Type of Entity: State**

**Settlement: \$ 2,250,000**

**Date of Loss: 8/10/1999**

**Date of Verdict/Settlement: 3/17/2008**

**Facts:**

Several families sued the Washington State Department of Corrections after five children were wounded or traumatized in the 8/10/1999 attack on a California Jewish community center. The incident took place when Washington parolee Buford O. Furrow Jr., a self-professed white supremacist with a history of mental illness, shot over 70 rounds into the Granada Hills, CA, community center. The shootout wounded three boys, a teenage girl and a woman. Following that, Furrow Jr., went to the San Fernando Valley neighborhood and killed mailman Joseph Iletto. Furrow was under state supervision in April 1999, after his release from jail on an assault conviction. He had been reporting as directed for several months prior to the August shooting. Following that disaster, he was sentenced to life in prison in 2001. As part of a settlement reached, the Washington Department of Corrections agreed to pay a \$2.25 million package to the families, resolving the lawsuit. Their suit alleged that the department was negligent in failing to supervise Buford by failing to visit his Nisqually home and not discovering firearms and ammunition he had obtained.

**State: WA**

**Public Entity: Seattle School District**

**Type of Entity: School District**

**Settlement: \$ 3,000,000**

**Date of Loss: 1/1/2005**

**Date of Verdict/Settlement: 4/7/2008**

**Facts:**

Molestation: Families of several victims of child molestation brought a lawsuit against the Seattle School District, accusing it of failing to protect its students from Lauren Hill, a former teacher in the district, who was later convicted of child molestation. Records and witness testimonies revealed that Hill was convicted of child molestation in 2005. The suit against the district alleged that Hill preyed on students for years and was never disciplined by the district, which enabled the misconduct to go unchecked for over a decade. As part of a settlement reached in the case, records show that a King County magistrate awarded Hill's victims a \$3 million settlement.

**State: WA**

**Public Entity: Seattle Public Schools**

**Type of Entity: School District**

**Settlement: \$ 15,000,000**

**Date of Loss: 1/26/2007**

**Date of Verdict/Settlement: 3/11/2009**

**Facts:**

Quadriplegia: Mac Clay was paralyzed after a wrestling-practice incident at West Seattle High School on 1/26/07. He was injured in a freak wrestling accident that damaged his spinal cord in his neck. Two other boys fell over on him while he was wrestling with his practice partner. Clay has limited use of his arms but no use of his fingers. Before the accident, Clay was a cellist in the Seattle Youth Symphony. He had played the instrument since age 6. On 3/11/09 Seattle Public Schools settled for \$15 million.

**State: WA**

**Public Entity: Seattle**

**Type of Entity: City**

**Settlement: \$ 12,750,000**

**Date of Loss: 12/3/2010**

**Date of Verdict/Settlement: 10/10/2010**

**Facts:**

Mark Jones fell 18-feet down the fire pole shaft of Seattle Fire Station 33 in December 2003. He suffered 10 broken ribs, multiple pelvic fractures as well as brain and spine injuries. He filed a lawsuit in 2006 accusing the city of negligence for not properly safeguarding the alcove containing the station's fire pole. A safety light that normally illuminates the fire pole alcove had burned out. A chain that would have restricted access had not been latched. His fall led to a state Department of Labor and Industries investigation that resulted in an \$800 fine against the fire department for a serious safety violation. In October 2009 a jury awarded Jones \$12.75 million, but the city appealed. On 10/18/2010 a King County Superior Court judge denied the City of Seattle's request to vacate the verdict.

**State: WA**

**Public Entity: Washington D.O.T**

**Type of Entity: State**

**Verdict: \$ 12,000,000**

**Date of Loss: 7/28/2007**

**Date of Verdict/Settlement: 10/20/2010**

**Facts:**

Quadriplegia: A King County jury awarded \$30 million to 30 year old Koti Hu, who was left paralyzed after his car was struck by a pickup on an Interstate 405 onramp on 7/28/07. He is paralyzed from the chest down. Since the crash he has moved home to be cared for by his parents. He sued the owner of the truck as well as the state DOT over the design of the onramp. The suit focused on the poor design of the metered onramp. The stop line is in shadows and is visible to drivers only after coming around a 180-degree curve. The jury found the company that owns the truck was 60% responsible for the accident, with the DOT responsible for the remaining \$12 million.

**State: WA**

**Public Entity: Washington D.O.T.**

**Type of Entity: State**

**Settlement: \$ 8,000,000**

**Date of Loss: 10/28/2007**

**Date of Verdict/Settlement: 10/25/2010**

**Facts:**

Quadriplegia: The state Transportation Department has agreed to pay \$8 million to a bicyclist who was paralyzed after his tire got caught in a gap between two steel grates on the Montlake Bridge. Environmental lawyer Mickey Gendler was thrown over the handlebars, and his head slammed against the roadway in the Oct. 28, 2007 accident. The impact split his helmet and paralyzed him from the neck down. Gendler sued over the design of the bridge, citing a gap between two steel panels on the bridge deck. At more than the half-inch width called for in the design, the gap was wide enough to catch his bike tire. The lawsuit uncovered another accident eight years earlier involving a bicyclist that resulted in less serious injuries. The two sides settled in Thurston County Superior Court with neither side having to admit fault.

## A. RISK MANAGEMENT GLOSSARY

*This glossary compiled by the Public Risk Management Association (PRIMA) is a practical guide to risk management terminology and vocabulary. Although every effort has been made to present accurate and up-to-date definitions, PRIMA accepts no responsibility or liability with regard to the information provided. Information is intended to be of a general nature only and is not necessarily comprehensive. Risk management is a complex field and changes rapidly; therefore, it would be impossible to include every applicable term. Glossary users should refer to standard texts and references for additional detail. (<http://www.primacentral.org/>)*

### A

**AAIS:** American Association of Insurance Services

**ACAS:** Associate of the Casualty Actuarial Society

**ACBM:** asbestos-containing building material

**accident:** any unplanned or unexpected event causing material loss or damage or causing personal injury or death

**ACGIH:** American Conference of Governmental Industrial Hygienists

**ACM:** asbestos-containing material

**ACORD:** Agent-Company Organization for Research and Development

**actual cash value (ACV):** the cost of replacing or repairing damaged property minus depreciation

**actual damages:** money paid to a plaintiff for actual losses that were incurred  
see: [compensatory damages](#)

**actuary:** a person who uses statistical records to calculate premiums and other insurance-related rates

**AD&D:** accidental death and dismemberment

**ADA:** Americans with Disabilities Act

**additional insured:** a person or group not covered initially by an insurance policy, but for whom insured status is provided through an endorsement

**ADEA:** Age Discrimination in Employment Act

**adjuster:** person who settles claims  
see: claims

**adjustment:** the settling of insurance claims

**admitted insurer:** an insurance company licensed to do business in the state where the insured exposure is located

**AGRIP:** Association of Governmental Risk Pools

**AHERA:** Asbestos Hazard Emergency Response Act

**AIC:** Associate in Claims

**AICPCU:** American Institute for Chartered Property Casualty underwriters

**AIHA:** American Industrial Hygiene Association

**AIPLU:** American Institute for Property and Liability Underwriters

**ALCM:** Associate in Loss Control Management

**all risk policy:** property insurance that covers incidental losses except for those that are specifically excluded

**alternate dispute resolution (ADR):** a method of resolving legal disputes outside of the court system

**ANSI:** American National Standards Institute

**arbitration:** dispute resolution by an impartial third party

**ARIA:** American Risk and Insurance Association

**ARM:** Associate in Risk Management

**ARM-P:** Associate in Risk Management for Public Entities

**ASCLU:** American Society of Chartered Life Underwriters

**ASHRM:** American Society for Healthcare Risk Management

**ASSE:** American Society of Safety Engineers

**assured:** an insured party

**ASTM:** American Society for Testing and Materials

**attenuation:** the reduction in the sound pressure level that occurs in the ear when hearing protection is worn

**audiogram:** the recording produced by an audiometer that measures hearing loss

**audiometer:** a machine used to measure hearing loss.

**audit:** the process by which procedures and documentation are measured against standards

**automobile liability insurance:** insurance coverage that protects the insured party against auto-related injuries and property damage caused to others by the insured's vehicle

**automobile physical damage insurance:** insurance coverage that protects the insured party's vehicle against collision, theft and vandalism

## B

**binder:** a legal agreement that provides temporary evidence of insurance until the policy is formally issued

**biological hazard:** an organism, or a substance derived from an organism that is a potential threat to human health

**blanket policy:** a single insurance policy that covers several locations or properties

**bloodborne pathogens:** microorganisms present in human blood or bodily fluids that can cause disease or infection in persons exposed to the substance

**boiler and machinery insurance:** property insurance coverage for loss arising out of the operation of pressure, mechanical and electrical equipment.

see: [equipment breakdown insurance](#)

**bond:** a contract where one party guarantees the performance of another party to a third party to whom the performance or debt is owed

**book of business:** the total number of accounts written by an insurance company or an agent

**book value:** the value of an organization's assets according to Generally Accepted Accounting Principles

**broker:** an intermediary who brings together clients who need insurance and the insurance companies that provide the policies

**builder's risk insurance:** property insurance that covers structures under construction

**business continuity plan:** a plan that describes the actions and participants needed to restore normal business operations after an adverse event

**business interruption insurance:** insurance that covers the loss of income resulting from the interruption of business that is caused by a covered peril

## C

**CAFR:** Comprehensive Annual Financial Report

**cancellation:** termination of an insurance policy or bond before its expiration date

**capacity:** the largest amount of insurance available from a company or insurance market

**carrier:** the company that issues and assumes the risk of an insurance policy

**casualty insurance:** insurance that covers losses caused by injury to persons and liability for said injuries or damage to personal property

**CAT:** catastrophe

**CBRN:** chemical, biological, radiological or nuclear weapon

**CCIP:** contractor controlled insurance program

**CEBS:** Certified Employee Benefits Specialist

**cede:** to transfer a risk from an insurance company to a reinsurance company

**ceiling limit:** the maximum allowable concentration of a substance to which an employee may be exposed

**CERCLA:** Comprehensive Environmental Response Compensation and Liability Act

**certificate of insurance:** a document that proves insurance was purchased by a party

**CIH:** Certified Industrial Hygienist



**claim:** a demand for recovery from a loss that is covered by an insurance policy

**claims adjuster:** person who settles claims

see: [adjuster](#)

**claims-made policy:** an insurance policy that covers claims made during the year the policy is in force for incidents that occur during that year

**Class A fire:** fire containing common combustibles such as paper and wood

**Class B fire:** fire containing flammable liquids and gases such as grease, oil, or gasoline

**Class C fire:** fire containing live electrical equipment

**Class D fire:** fire containing flammable metals such as magnesium and lithium

**Class K fire:** fire containing cooking media such as oils and fats

**CLU:** Chartered Life Underwriter

**COB:** coordination of benefits

**COBRA:** Consolidated Omnibus Budget Reconciliation Act

**coinsurance:** a jointly-issued insurance policy (method of reinsurance)

**combined ratio:** the percentage of each premium dollar a property/casualty insurer spends on claims and expenses

see: [composite ratio](#) or [statutory ratio](#)

**commercial general liability policy (CGL):** an insurance policy that protects businesses against claims for bodily injury and property damage arising out of premises, operations, products and completed operations as well as advertising and personal injury

**commission:** the percentage of premium that serves as compensation for a broker or insurance agent

**comparative negligence:** a rule of law applied in accident cases to determine responsibility and damages based on the negligence of every party directly involved in the accident

**compensatory damages:** money paid to a plaintiff for actual losses that were incurred

see: [actual damages](#)

**composite ratio:** the percentage of each premium dollar a property/casualty insurer spends on claims and expenses

see: [statutory ratio](#)

**concealment:** the intentional holding back of information that could potentially affect the issuance of an insurance policy

**confined space:** a space that has limited or restricted means of entry or exit, is large enough for an employee to enter and perform assigned work, and is not designed for continuous occupancy by the employee. These spaces may include, but are not limited to, underground vaults, tanks, storage bins, pits and diked areas, vessels, sewers, and silos.

see: [permit-required confined space](#) and [confined space entry permit](#)

**confined space entry permit:** employer's written procedure for preparing and issuing permits for entry and for returning the permit space to service following termination of entry

**consequential damages:** damages that are given not as a direct result of an act, but as consequence of the initial act.

**consideration:** in contractual law, something of value given by one party in return for the promises of the other party to the contract.

**Consumer Product Safety Commission (CPSC):** an independent federal agency charged with protecting the general public against unreasonable injuries associated with consumer products

**contingency planning:** organized steps that are taken in order to deal with an adverse event within an entity

**contingent liability:** a potential liability

**contract:** an agreement between two or more parties where there is mutual agreement, consideration, competent parties and legal subject matter

**contributory negligence:** a doctrine of common law that if a person was injured in part due to his/her own negligence (his/her negligence "contributed" to the accident), the injured party would not be entitled to collect damages from another party who supposedly caused the accident.

**coordination of benefits:** A process for determining the respective responsibilities of two or more health plans that have some financial responsibility for a medical claim

**COSO:** Committee on Sponsoring Organizations

**cost allocation:** in a pool, the formula that determines a member's premium.

**cost of risk:** sum of items such as the cost of risk management operation, insurance premiums, claims and legal expenses and other costs related to controlling the impact of adverse events

**cover:** a) an insurance contract, b) to effect insurance, c) to include within coverage of an insurance contract

**coverage:** insurance

**CPCU:** Chartered Property Casualty Underwriter

**crime coverage:** coverage that protect the insured against theft, robbery and burglary. Covers money and securities as well as stock and fixtures

**critical facilities:** Structures that are essential to the operation of communities and the economy of an entity.

**CRIS:** Construction and Risk Insurance Specialist

**CRO:** Chief Risk Officer

**CSP:** Certified Safety Professional

**CWCP:** Certified Workers' Compensation Professional

## D

**declarations page:** the pages of an insurance policy that show basic information such as policy limits, the named insured and the locations of premises covered

**deductible:** a portion of the loss that is not paid by the insurer

**defendant:** in civil cases, the party against whom the claim has been brought

**defense clause:** An insurance provision in which the insurance company agrees to defend, with respect to insurance afforded by the policy, all suits against the insured.

**defense coverage:** liability insurance that covers defense costs, but not settlements or indemnity payments

**defined benefit plan:** a pension plan that provides specific benefits to an employee

**defined contribution plan:** a pension plan where a specific contribution is made, but no specific benefit is promised

**development:** the difference between the cost of a loss as it is initially reserved and its value at a later date

**direct loss:** a loss that is incurred due to direct damage to property

**directors' and officers' liability insurance (D&O):** policy that insures corporate directors and officers against claims alleging financial loss due to mismanagement

**disability:** a condition that incapacitates a person in a way where they cannot carry on normal life activities

**disaster:** an unplanned event that can cause death or injury, property damage, financial loss or an interruption to normal operations of an entity

**disaster management:** structured method of dealing with problems and conditions arising from an adverse event

see: [emergency management](#)

**discovery:** an investigation of the facts of a claim

**DOL:** U.S. Department of Labor

**dollar threshold:** For no fault coverages, the amount of money that determines whether or not a case is litigated

## E

**EAP:** employee assistance program

**earned premium:** the part of the premium that applies to the expired portion of the policy

**earthquake coverage:** purchased as a separate policy from property coverage to protect against damage due to seismic activity

**educator's legal liability insurance:** coverage for claims made against administrators, employees, and staff members of K-12 schools, colleges and universities

*syn: school board legal liability insurance*

**effective date:** the date where coverage by an insurance policy goes into effect

**eligibility period:** span of time where employees may enroll in a group benefits program

**emergency management:** structured method of dealing with problems and conditions arising from an adverse event

see: [disaster management](#)

**employee benefits liability:** potentially negligent act that could occur in the administration of an insured's employee benefits such as health insurance

**employee dishonesty coverage:** provides protection from theft of money, securities or property by employees

**employment practices liability insurance:** covers wrongful act that arise as a result of the employment process

**end of service life indicator (ELSI):** used on a chemical cartridge to indicate when the cartridge should be discarded

**endorsement:** an addition to an insurance policy that changes an original provision of the policy.

see: [rider](#)

**enterprise risk management (ERM):** a holistic approach for dealing with insurable as well as uninsurable risks within an entity

**environmental impairment liability insurance:** a policy that covers liability and cleanup costs due to pollution

**EPLI:** employment practices liability insurance

**equipment breakdown insurance:** insurance coverage for loss due to the breakdown of boilers as well as other types of mechanical equipment such as computers

see: [boiler and machinery insurance](#)

**ergonomics:** the study of physical factors that impact a person performing a particular job in a particular environment

**ERISA:** Employee Retirement Income Security Act

**ERPL:** employment-related practices liability

**errors and omissions (E&O) insurance:** insurance that protects the policyholder against claims that allege negligence due to a mistake or an omission in the performance of duties. Usually refers to professional services.

**ESH:** environmental safety and health

**excess and surplus insurance:** coverage that cannot be placed with an admitted insurer

**excess insurance:** a policy that applies to losses in excess of a specified amount

**exclusion:** the portion of a policy that references items not covered by the policy

**exclusive remedy:** the component of workers' compensation that disallows employees who are injured on the job from making tort liability claims against the employer

**expense ratio:** the portion of premium used to write, service and obtain insurance or reinsurance

**experience:** an insured's loss record or that of a specific employee classification

**experience modifier:** a factor that measures the difference between an insured's past experience and the expected experience

**experience rating:** in workers' compensation, a comparison between the actual loss experience and the experience that is expected from others in the insured's rating class

**expiration date:** termination date of an insurance policy

**Explosion Class 1:** flammable gas/vapor

**Explosion Class 2:** combustible dust

**Explosion Class 3:** ignitable fibers

**exposure:** vulnerability to a particular risk

**exposure level:** The level of a physical or chemical hazard to which an employee has been exposed.

**extended coverage:** an endorsement to a fire policy that adds windstorm, hail, explosion (except steam boilers), riot, civil commotion, aircraft, vehicles and smoke as covered perils

**extended reporting period:** a period after the expiration of a claims-made policy where a claim can be made and coverage made available if that claim was made during the policy period

**extra expense:** costs that an entity incurs when excess of normal operations whenever property is being repaired or replaced after being damaged

## F

**FCAS:** Fellow of the Casualty Actuarial Society

**FEMA:** Federal Emergency Management Agency

**fidelity bond:** insures a business for losses caused by the dishonest acts of its employees.

**first dollar coverage:** insurance that pays losses up to a specified amount without the use of deductibles

**first responder:** the first persons trained to arrive at the scene of a hazardous materials event, an accident or other adverse incident-usually police, fire or emergency medical personnel

**flash point:** the lowest temperature at which a flammable-vapor-air mixture above a liquid will ignite when an ignition source is introduced

**fleet policy:** coverage for a number of vehicles under common ownership

**floater:** property insurance for items that are moved from one place to another

**FMLA:** Family and Medical Leave Act

**frequency:** the likelihood that a loss will happen

**FRM:** Fellow in Risk Management

## G

**garage keeper's insurance:** provides coverage of vehicles left in the insured's custody for safekeeping or repairs

**GASB:** Governmental Accounting Standards Board

**general liability insurance:** provides coverage for most liability exposures except for vehicles and professional liability

**generally accepted accounting principles (GAAP):** accounting procedures used to prepare financial statements

**geological hazard:** natural processes such as earthquakes, landslides or volcanic eruptions that can cause death, injury, property damage or an interruption of normal operations of an entity

**gross negligence:** Failure to use even the slightest amount of care in a way that shows recklessness or willful disregard for the safety of others.

**gross premium:** pure premium adjusted to reflect insurer expenses

**group insurance:** insurance provided to a specific group of people

**group self-insurance:** self-insurance jointly provided for an entire group of entities rather than to the individual entities

**guaranty fund:** funds available through a state insurance commission that protect policyholders in the event an insurer becomes insolvent or cannot meet its obligations

## H

**hammer clause:** a provision that states if the insured does not approve a settlement figure recommended by the insurer, the insurer will not be liable for additional funds required to settle the claim or for defense costs beyond the settlement recommendation

**hard market:** an insurance market cycle characterized by high rates, low coverage limits and restrictions on coverage  
see: soft

**hazard:** conditions that increase the chances of a loss occurring

**HAZMAT:** an acronym for 'hazardous materials'

**Health Insurance Portability and Accountability Act (HIPAA):** law guaranteeing continuity of healthcare insurance coverage for persons who change jobs

**HEPA filter:** High Efficiency Particulate Air filters

**HMO:** health maintenance organization

**hold harmless:** the assumption of liability through contractual agreement by one party, thereby eliminating liability on the part of another party

**hold harmless agreement:** a provision within a contract that spells out the assumption of liability through contractual agreement by one party, thereby eliminating liability on the part of another party

**HVAC:** heating, ventilation and air conditioning



**hydrometeorological hazard:** weather-related adverse conditions such as hurricanes, thunderstorms, floods, etc.

## I

**IBNR:** an estimate of losses where the claim-generating event has occurred, but the loss has not been reported to the insurer

**IDEA:** Individuals with Disabilities Education Act

**IDLH:** immediately dangerous to life and health

**IME:** independent medical exam

**immunity:** The legal protection that prevents a sovereign state or person from being sued without consent.

see: [sovereign immunity](#)

syn: governmental immunity

**incident:** an event; a definite occurrence

**incurred but not reported (IBNR):** a dollar estimate of the liability for events that have occurred, but have not been reported as claims to the insurer

**incurred claims:** claims paid during the policy year plus the claim reserves as of the end of the policy year, minus the corresponding reserves as of the beginning of the policy year

**incurred loss:** the total amount of paid claims plus the loss reserves during a particular period of time (usually a policy year)

**incurred loss ratio:** the ratio of paid losses plus reserves to the amount of premium earned

**incurred losses:** total paid claims plus claims reserves within a given period (usually a policy year)

**indemnify:** to compensate a party for an injury, loss or damage

**indemnity:** compensation of a loss up to the amount of the loss

**indexing:** adjustment of reinsurance limits by measures of economic activity such as the Consumer Price Index

**indirect loss:** A loss that arises from a peril, but is not directly and immediately caused by it

**initial reserve:** funds set aside when a claim is first opened in order to estimate the cost of said claim

**insolvent:** a condition where an insurance carrier cannot meet its financial obligations or pay claims

**insurance:** a contractual relationship that exists where one party, for consideration, agrees to reimburse another party for a specific loss caused by specified hazards

**Insurance Services Office (ISO):** an organization that collects data and ratings information, develops policy forms and files information with state regulators for the insurance companies that are its members

**insured:** person or entity covered by an insurance policy

**insurer:** company that indemnifies losses and provides insurance services

**investment income:** income derived from an entity's investments versus its operations

**IRMI:** International Risk Management Institute

## J

**joint and several liability:** in civil cases, a form of liability by which members of a group are either individually or mutually responsible to a party who has been awarded a favorable judgment

**Joint Powers Authority:** an institution that when created, allows two or more local governments (or other public entities) to act in a cooperative manner.

**JSA:** job safety analysis

## L

**lapsed policy:** a policy that has been terminated due to non-payment of premium

**large loss principle:** transfer of high severity risks through the insurance contract to protect against catastrophic occurrences

**liability:** a legally-enforceable obligation

**liability insurance:** coverage that protects the insured against losses arising from legal liability to others

**limited losses:** a dollar amount that limits the size of a loss resulting from an individual claim

**limits:** the total amount of losses to be paid under an insurance policy

**loss:** a negative consequence of an incident (could be financial or non-financial). The basis for claims under terms of an insurance policy

**loss control:** the process that involves reducing the possibility that a loss will occur and reducing the severity of losses that do occur

**loss triangle:** a table that shows loss experience and claims development over regular intervals. Name comes from the shape the data take when displayed in the table

**lower explosive limit (LEL):** the minimum percent by volume of a gas which, when mixed with air at standard temperature and pressure, will form a flammable mixture

## M

**malpractice:** an act of negligence while performing a professional service

**managed care:** structured healthcare delivery meant to provide cost-effective and appropriate services

**manuscript policy:** a custom-made insurance policy

**marine insurance:** coverage for the transport of goods via ocean or land (ocean and inland marine are the two types)

**market risk:** exposure to uncertainty due to changes in rates or prices of invested assets

**master policy:** the combination of two or more properties or locations under the same policy for the same insured

**material safety data sheet (MSDS):** OSHA form that describes a hazardous chemical's properties, potential hazards as well as safe storage and handling procedures

**McCarran-Ferguson Act:** the act that exempted insurance from federal regulation. Insurance regulation is performed by individual states

**Medicaid:** federal program that pays medical expenses for low-income individuals

**Medicare:** federal program that pays medical expenses for individuals over 65 years of age and those who are disabled if they qualify for Social Security Benefits

**memorandum of understanding (MOU):** a document describing an agreement between parties that spells out specific activities and duties but usually does not imply a legal commitment

**MHSA:** Mine Safety and Health Administration

**misrepresentation:** a false statement that can potentially allow an insurer to void an insurance contract

**mitigation:** A means of reducing the significance of adverse effects

**multi-peril policy:** a policy that insures a number of causes of loss.

**MUTCD:** Manual of Uniform Traffic Control Devices

**mutual:** an insurance company owned by its policyholders

**mutual insurance company:** an insurance company owned and operated by its insureds

**MVR:** motor vehicle record

## N

**NAIC:** National Association of Insurance Commissioners

**named insured:** a person or entity specifically designated by name as covered by an insurance policy

**named perils coverage:** property insurance coverage for those perils specifically named in the policy

**NCCI:** National Council on Compensation Insurance

**negligence:** a civil wrong involving the failure to use reasonable care and consideration under a given set of circumstances. Can be an act of omission or commission

**NFIP:** National Flood Insurance Program

**NFPA:** National Fire Protection Association

**NIMS:** National Incident Management System

**NIOSH:** National Institute for Occupational Safety and Health

**non-admitted insurance company:** a carrier not licensed to do business within a particular state

**non-economic damages:** an award to an injured party based on a non-monetary loss; i.e. pain and suffering

**NRRA:** National Risk Retention Association

## O

**occupational injury:** personal injury arising from employment-related factors

**occurrence policy:** an insurance policy that covers claims made during the year the policy is in force regardless of when the claim was filed.

**operational risk:** the potential for adverse events by exposures other than credit, market and interest rate risks

**owner-controlled insurance program (OCIP):** an insurance policy held by a property owner during the construction or renovation of a property.

## P

**package policy:** an insurance policy providing different types of coverage; usually a combination of general liability and property coverages

**PARMA:** Public Agency Risk Managers Association

**partial disability:** a disability that is not total

**peril:** a cause of loss

**permanent partial disability (PPD):** in workers' compensation, a disability where the employee is able to work, but at a reduced capacity

**permanent total disability (PTD):** in workers' compensation, a type of disability where the employee is unable to ever work again at any type of employment

**permissible exposure limit (PEL):** the maximum permissible concentration of a toxic chemical or exposure level of a harmful physical agent to which an employee maybe exposed

**permissible exposure limit (PEL):** maximum amount of a toxic substance that a worker can be subjected to, usually an average of 8 hours (time-weighted average)

**permit-required confined space:** An area that meets the definition of a confined space and has one or more of these characteristics:

- contains or has the potential to contain a hazardous atmosphere
- contains a material that has the potential for engulfing the entrant,
- has an internal configuration that might cause an entrant to be trapped or asphyxiated by inwardly converging walls or by a floor that slopes downward and tapers to a smaller cross section, and/or contains any other recognized serious safety or health hazards.

see: [confined spaces](#) and [confined space entry permit](#)

**personal injury protection (PIP):** a form of vehicle insurance that provides first party benefits without regard to fault

**personnel risk:** an exposure to loss arising form the death, injury, disability or departure of an employee

**plaintiff:** the party that brings suit and seeks damages

**police professional liability insurance:** coverage for law enforcement officers and their departments within the scope of their duties

**policy:** a written contract of insurance between the insurer and policyholder

**policyholder:** person in actual possession of the insurance policy; the insured

**pollutant:** an irritant or contaminant-can be in a solid, liquid or gaseous form

**pool:** a group of organizations that form a separate entity where risks are shared

**power of attorney:** legal authority given to a person or entity to act on the behalf of another

**PPO:** preferred provider organization

**preexisting condition:** a health or physical condition that existed prior to the effective date of a medical insurance policy

**premium:** the amount of money charged for coverage by an insurance policy or a bond

**premium:** the money an insurer charges to provide insurance coverage

**premium tax:** a state tax that is imposed on gross written premiums

**present value:** the value today of a future payment,

**PRIMA:** Public Risk Management Association

**primary insurance:** insurance that responds first to a claim

**principal sum:** the amount payable in the event of an accidental death or dismemberment

**prior acts coverage:** a policy that covers claims that arise out of events that occurred before the policy period

**producer:** another term for a broker or agent who sells insurance

**professional liability insurance:** coverage for economic losses related to the performance of professional services

**proof of loss:** a statement made by the insured to the insurer regarding a claim so that liability may be determined

**property damage coverage:** physical harm to tangible property

**proration:** adjustment of policy benefits due to changes in exposure or the existence of other insurance

**public officials' liability insurance:** coverage for the errors and omissions of public officials

**punitive damages:** damages in excess of compensatory damages, usually for wanton or willful acts, that are meant as punishment a defendant

**pure premium:** actual cost of indemnity payments and expenses to an insurer

## Q

**quid pro quo:** the exchange of values by parties in order to form a valid contract

## R

**rate:** the unit of cost that determines an insurance premium

**rated insurer:** an insurer that has received a rating on their size and strength from an agency such as Standard and Poor's

**rating bureau:** an organization that collects statistics on behalf of insurance companies

**RCRA:** Resource Conservation and Recovery Act

**reasonable accommodations:** from the Americans with Disabilities Act "modifications or adjustments to a job application process or a job performance process that enable a qualified applicant with a disability to be considered for or perform the position

**reimbursement:** provision in a policy where the insured pays a loss and is reimbursed by the insurer

**reinstate:** returning a policy limit to its original amount after the original limit has been exhausted

**reinsurance:** the purchase of insurance from one insurance company to another in order to limit losses-the sharing of risks between insurance companies.

**remediation:** cleanup of hazardous materials from a polluted site

**renewal:** the replacement of an expiring policy

replacement cost: the cost of replacing damaged property with materials of like kind and quality

**Request for Proposal (RFP):** a document used to secure proposals for insurance or risk management services

**Request for Qualifications (RFQ):** a document issued prior to a request for proposal that gives a vendor information for deciding whether to engage in the RFP process

**reservation of rights:** a notice from an insurer to the insured that coverage for a claim may not apply

**reserve:** funds set aside in anticipation of claims payments

**residual market:** an insurance market that serves as a last-resort for people and firms that have been rejected by the voluntary market

**respondeat superior:** legal doctrine that states the employer can be held liable for the actions of employees



**retrocession:** a reinsurer transfers risks it has reinsured to another reinsurer

**retrocessionaire:** a reinsurer of reinsurers

**retrospective rating:** a rating plan that adjusts premium according to current loss experience of the insured

**rider:** an addition to an insurance policy or bond that changes an original provision of the policy.

see: [endorsement](#)

**RIMS:** Risk and Insurance Management Society

**risk:** the threat of an action or inaction that will prevent an entity from achieving its objectives

**risk:** uncertainty that arises from a possible occurrence

**risk appetite:** the willingness of an entity to accept a specific level of risk in order to operate in a cost-effective manner

**risk avoidance:** an informed decision not to become involved in a risky situation

**risk control:** the reduction of losses through training, installation of safety measures and institution of safety policies

**risk control:** the process that involves reducing the possibility that a loss will occur and reducing the severity of losses that do occur

see: [loss control](#)

**risk factors:** characteristics that can be measured or observed which indicate risks that are potentially present

**risk management:** a strategy developed to reduce or control the chance of harm or loss; the process of identifying, evaluating, selecting and implementing actions to eliminate or reduce harm.

**risk map:** graphic representation of the likelihood of specific risks (frequency and severity)

**risk reduction:** loss control-frequency reduction

**risk retention:** the acceptance of losses through payment of deductibles, not insuring, and other methods where there is no risk transfer

**risk sharing:** in a group of policyholders, premium is allocated according to a predetermined formula

**risk tolerance:** the willingness of an entity to accept a specific level of risk in order to receive a future benefit

**risk transfer:** the risk of a loss is moved to another party via a contract

**risk treatment:** the selecting and implementing of available options for managing risk

**RMIS:** risk management information system

**RMPE:** Risk Management for Public Entities

## S

**SAA:** Surety Association of America

**salvage:** the amount for which an asset can be sold for at the end of its useful life

**SARA:** Superfund Amendments and Reauthorization Act

**SCBA:** self-contained breathing apparatus

**segregation:** the placement of loss exposure units so that the loss in one unit is unlikely to occur at the same time as a loss in another unit

**self-insurance:** a system where an entity sets aside funds in order to pay for losses that would normally be covered by insurance

**self-insured retention (SIR):** the dollar amount that must be paid on a loss before insurance responds. Differs from a deductible in that it is not included as part of a liability policy's limits.

**severity:** the amount of damage inflicted by a loss

**short term exposure limit (STEL):** maximum exposure to a substance that is allowed within a continuous 15-minute exposure period

**SIC:** Standard Industry Classification

**soft market:** an insurance market cycle characterized by low rates, high coverage limits and good availability of coverage  
see: hard

**sovereign immunity:** The legal protection that prevents a sovereign state or person from being sued without consent.

see: [immunity](#)

**SOX:** Sarbanes-Oxley Act of 2002

**special events insurance:** coverage for events outside of an entity's everyday operations

**specialty risk insurance:** coverage for unusual exposures not normally underwritten by most insurers

**Stafford Act:** law designed to bring federal disaster assistance to state and local governments in a systematic manner

**standard:** a rule, established by a competent authority, which designates safe and healthful conditions or practices under which work must be performed to prevent injury, occupational illness, or property damage

**statutory ratio:** the percentage of each premium dollar a property/casualty insurer spends on claims and expenses

see: [combined ratio](#) or [composite ratio](#)

**strict liability:** a person or entity is held liable because the act occurred.

**submission:** a proposal for insurance submitted to an underwriter

**subrogation:** an insurer who pays out to an insured under an insurance policy can gain the rights belonging to the insured against a third party who caused the loss.

**summary judgment:** The determination by a court that no factual issues are in dispute, and that the legal issues require the case to be decided in favor of one party or the other

**Superfund:** a program administered by the Environmental Protection Agency for removal and remediation of solid wastes

**surety bond:** bond given to protect the recipient against loss in case the terms of a contract are not filled

**surplus:** the amount by which an insurer's assets exceed its liabilities

**surplus line:** risks that are placed with a non-admitted insurance carrier

## T

**tail coverage:** coverage for claims made after a claims-made liability policy has terminated

**temporary partial disability (TPD):** in worker's compensation, a disability level where the employee cannot perform their normal job function, but can work at reduced levels

**temporary total disability (TTD):** in worker's compensation, a disability level where the employee cannot perform any job function, but on a temporary basis

**Tenant Users Liability Insurance Program (TULIP):** an insurance policy that usually covers bodily injury or property damage claims arising from an outside party's use of the insured's facilities

**termination:** the formal ending of a reinsurance agreement

**Third Party Administrator (TPA):** a firm that, for consideration, handles administrative tasks such as claims, loss control and risk management consulting for an entity

**threshold limit value (TLV):** airborne concentrations of a substance that most workers can be subjected to day after day without adverse effect

**Title IX of the Education Amendments of 1972:** a federal law prohibiting discrimination in educational institutions on the basis of sex

**Title VII of the Civil Rights Act of 1964:** a federal law prohibiting employment discrimination on the basis of race, color, religion, sex or national origin

**tort:** a civil wrong, other than a breach of contract, that causes damage to property, a person's reputation or to a person's commercial interest

**tortfeasor:** party that is accused of committing a tort

**total disability:** the inability to perform the duties of a gainful occupation

**treaty:** an agreement between a reinsurer and an insurer on the types of businesses the reinsurer will accept from the insurer

**trend:** forecasting factor that accounts for increases over a period of time in the amount of losses incurred by an entity

**TRIA:** Terrorism Risk Insurance Act

**TRIEA:** Terrorism Risk Insurance Extension Act

**trustee:** a person appointed to manage the property of another

## U

**ultimate loss:** the sum total of the cost of a fully-developed loss

**umbrella policy:** a policy that provides coverage for catastrophic losses

**underwriter:** person who decides whether or not a particular risk is acceptable to an insurer

**underwriting:** the process an insurance company uses to determine whether to accept a risk

**underwriting profit/loss:** the gain or loss an insurer receives for providing coverage for a particular risk

**uninsured/underinsured motorist coverage:** automobile coverage for injury and damages incurred by the actions of a driver who has no insurance or who is underinsured

URMIA: University Risk Management and Insurance Association

## V

**vicarious liability:** liability of a principal for the action of its agent

## W

**waiver:** surrender of a right or privilege

**workers' compensation:** the system by which an employee is paid benefits due to a job-related injury or illness. Each state has its own eligibility criteria

## B. INSURANCE TERMS GLOSSARY

*This glossary of insurance terms is one of many insurance industry resources offered by A.M. Best Company through its web site. Information is intended to be of a general nature only and is not necessarily comprehensive. Insurance is a complex field and changes rapidly; therefore, it would be impossible to include every applicable term. (<http://www.ambest.com/>)*

### A

**Acceleration Clause** - The part of a contract that says when a loan may be declared due and payable.

**Accidental Death Benefit** - In a life insurance policy, benefit in addition to the death benefit paid to the beneficiary, should death occur due to an accident. There can be certain exclusions as well as time and age limits.

**Active Participant** - Person whose absence from a planned event would trigger a benefit if the event needs to be canceled or postponed.

**Activities of Daily Living** - Bathing, preparing and eating meals, moving from room to room, getting into and out of beds or chairs, dressing, using a toilet.

**Actual Cash Value** - Cost of replacing damaged or destroyed property with comparable new property, minus depreciation and obsolescence. For example, a 10-year-old sofa will not be replaced at current full value because of a decade of depreciation.

**Actuary** - A specialist in the mathematics of insurance who calculates rates, reserves, dividends and other statistics. (Americanism: In most other countries the individual is known as "mathematician.")

**Adjustable Rate** - An interest rate that changes based on changes in a published market-rate index.

**Adjuster** - A representative of the insurer who seeks to determine the extent of the insurer's liability for loss when a claim is submitted.

**Admitted Assets** - Assets permitted by state law to be included in an insurance company's annual statement. These assets are an important factor when regulators measure insurance company solvency. They include mortgages, stocks, bonds and real estate.

**Agent** - individual who sells and services insurance policies in either of two classifications:

1. Independent agent represents at least two insurance companies and (at least in theory) services clients by searching the market for the most advantageous price for the most coverage. The agent's commission is a

- percentage of each premium paid and includes a fee for servicing the insured's policy.
2. Direct or career agent represents only one company and sells only its policies. This agent is paid on a commission basis in much the same manner as the independent agent.

**Aggregate Limit** - Usually refers to liability insurance and indicates the amount of coverage that the insured has under the contract for a specific period of time, usually the contract period, no matter how many separate accidents might occur.

**Annual Administrative Fee** - Charge for expenses associated with administering a group employee benefit plan.

**Annual Crediting Cap** - The maximum rate that the equity-indexed annuity can be credited in a year. If a contract has an upper limit, or cap, of 7 percent and the index linked to the annuity gained 7.2 percent, only 7 percent would be credited to the annuity.

**Annuitization** - Process by which you convert part or all of the money in a qualified retirement plan or nonqualified annuity contract into a stream of regular income payments, either for your lifetime or the lifetimes of you and your joint annuitant. Once you choose to annuitize, the payment schedule and the amount is generally fixed and can't be altered.

**Annuitization Options** - Choices in the way to annuitize. For example, life with a 10-year period certain means payouts will last a lifetime, but should the annuitant die during the first 10 years, the payments will continue to beneficiaries through the 10th year. Selection of such an option reduces the amount of the periodic payment.

**Annuity** - An agreement by an insurer to make periodic payments that continue during the survival of the annuitant(s) or for a specified period.

**Approved for Reinsurance** - Indicates the company is approved (or authorized) to write reinsurance on risks in this state. A license to write reinsurance might not be required in these states.

**Approved or Not Disapproved for Surplus Lines** - Indicates the company is approved (or not disapproved) to write excess or surplus lines in this state.

**Assets** - Assets refer to "all the available properties of every kind or possession of an insurance company that might be used to pay its debts." There are three classifications of assets: invested assets, all other assets, and total admitted assets. Invested assets refer to things such as bonds, stocks, cash and income-producing real estate. All other assets refer to nonincome producing possessions such as the building the company occupies, office furniture, and debts owed, usually in the form of deferred and unpaid premiums. Total admitted assets refer to everything a company owns. All other plus invested assets equals total

admitted assets. By law, some states don't permit insurance companies to claim certain goods and possessions, such as deferred and unpaid premiums, in the all other assets category, declaring them "nonadmissible."

**Attained Age** - Insured's age at a particular time. For example, many term life insurance policies allow an insured to convert to permanent insurance without a physical examination at the insured's then attained age. Upon conversion, the premium usually rises substantially to reflect the insured's age and diminished life expectancy.

**Authorized Under Federal Products Liability Risk Retention Act (Risk Retention Groups)** - Indicates companies operating under the Federal Products Liability Risk Retention Act of 1981 and the Liability Risk Retention Act of 1986.

**Automobile Liability Insurance** - Coverage if an insured is legally liable for bodily injury or property damage caused by an automobile.

## B

**Balance Sheet** - An accounting term referring to a listing of a company's assets, liabilities and surplus as of a specific date.

**Benefit Period** - In health insurance, the number of days for which benefits are paid to the named insured and his or her dependents. For example, the number of days that benefits are calculated for a calendar year consist of the days beginning on Jan. 1 and ending on Dec. 31 of each year.

**Best's Capital Adequacy Relativity (BCAR)** - This percentage measures a company's relative capital strength compared to its industry peer composite. A company's BCAR, which is an important component in determining the appropriateness of its rating, is calculated by dividing a company's capital adequacy ratio by the capital adequacy ratio of the median of its industry peer composite using Best's proprietary capital mode. Capital adequacy ratios are calculated as the net required capital necessary to support components of underwriting, asset, and credit risks in relation to economic surplus.

**Broker** - Insurance salesperson that searches the marketplace in the interest of clients, not insurance companies.

**Broker-Agent** - Independent insurance salesperson who represents particular insurers but also might function as a broker by searching the entire insurance market to place an applicant's coverage to maximize protection and minimize cost. This person is licensed as an agent and a broker.

**Business Net Retention** - This item represents the percentage of a company's gross writings that are retained for its own account. Gross writings are the sum of direct writings and assumed writings. This measure excludes affiliated writings.



# C

**Capital** - Equity of shareholders of a stock insurance company. The company's capital and surplus are measured by the difference between its assets minus its liabilities. This value protects the interests of the company's policyowners in the event it develops financial problems; the policyowners' benefits are thus protected by the insurance company's capital. Shareholders' interest is second to that of policyowners.

**Capitalization or Leverage** - Measures the exposure of a company's surplus to various operating and financial practices. A highly leveraged, or poorly capitalized, company can show a high return on surplus, but might be exposed to a high risk of instability.

**Captive Agent** - Representative of a single insurer or fleet of insurers who is obliged to submit business only to that company, or at the very minimum, give that company first refusal rights on a sale. In exchange, that insurer usually provides its captive agents with an allowance for office expenses as well as an extensive list of employee benefits such as pensions, life insurance, health insurance, and credit unions.

**Case Management** - A system of coordinating medical services to treat a patient, improve care and reduce cost. A case manager coordinates health care delivery for patients.

**Casualty** - Liability or loss resulting from an accident.

**Casualty Insurance** - That type of insurance that is primarily concerned with losses caused by injuries to persons and legal liability imposed upon the insured for such injury or for damage to property of others. It also includes such diverse forms as plate glass, insurance against crime, such as robbery, burglary and forgery, boiler and machinery insurance and Aviation insurance. Many casualty companies also write surety business.

**Ceded Reinsurance Leverage** - The ratio of the reinsurance premiums ceded, plus net ceded reinsurance balances from non-US affiliates for paid losses, unpaid losses, incurred but not reported (IBNR), unearned premiums and commissions, less funds held from reinsurers, plus ceded reinsurance balances payable, to policyholders' surplus. This ratio measures the company's dependence upon the security provided by its reinsurers and its potential exposure to adjustment on such reinsurance.

**Change in Net Premiums Written (IRIS)** - The annual percentage change in Net Premiums Written. A company should demonstrate its ability to support controlled business growth with quality surplus growth from strong internal capital generation.

**Change in Policyholder Surplus (IRIS)** - The percentage change in policyholder surplus from the prior year-end derived from operating earnings, investment gains, net contributed capital and other miscellaneous sources. This ratio measures a company's ability to increase policyholders' security.

**Chartered Property and Casualty Underwriter (CPCU)** -Professional designation earned after the successful completion of 10 national examinations given by the American Institute for Property and Liability Underwriters. Covers such areas of expertise as insurance, risk management, economics, finance, management, accounting, and law. Three years of work experience also are required in the insurance business or a related area.

**Claim** - A demand made by the insured, or the insured's beneficiary, for payment of the benefits as provided by the policy.

**Class 3-6 Bonds (% of PHS)** - This test measures exposure to noninvestment grade bonds as a percentage of surplus. Generally, noninvestment grade bonds carry higher default and illiquidity risks. The designation of quality classifications that coincide with different bond ratings assigned by major credit rating agencies.

**Coinsurance** - In property insurance, requires the policyholder to carry insurance equal to a specified percentage of the value of property to receive full payment on a loss. For health insurance, it is a percentage of each claim above the deductible paid by the policyholder. For a 20% health insurance coinsurance clause, the policyholder pays for the deductible plus 20% of his covered losses. After paying 80% of losses up to a specified ceiling, the insurer starts paying 100% of losses.

**Collision Insurance** - Covers physical damage to the insured's automobile (other than that covered under comprehensive insurance) resulting from contact with another inanimate object.

**Combined Ratio After Policyholder Dividends** - The sum of the loss, expense and policyholder dividend ratios not reflecting investment income or income taxes. This ratio measures the company's overall underwriting profitability, and a combined ratio of less than 100 indicates an underwriting profit.

**Commercial Lines** - Refers to insurance for businesses, professionals and commercial establishments.

**Commission** - Fee paid to an agent or insurance salesperson as a percentage of the policy premium. The percentage varies widely depending on coverage, the insurer and the marketing methods.

**Common Carrier** - A business or agency that is available to the public for transportation of persons, goods or messages. Common carriers include trucking companies, bus lines and airlines.

**Comprehensive Insurance** - Auto insurance coverage providing protection in the event of physical damage (other than collision) or theft of the insured car. For example, fire damage or a cracked windshield would be covered under the comprehensive section.

**Concurrent Periods** - In hospital income protection, when a patient is confined to a hospital due to more than one injury and/or illness at the same time, benefits are paid as if the total disability resulted from only one cause.

**Conditional Reserves** - This item represents the aggregate of various reserves which, for technical reasons, are treated by companies as liabilities. Such reserves, which are similar to free resources or surplus, include unauthorized reinsurance, excess of statutory loss reserves over statement reserves, dividends to policyholders undeclared and other similar reserves established voluntarily or in compliance with statutory regulations.

**Coverage** - The scope of protection provided under an insurance policy. In property insurance, coverage lists perils insured against, properties covered, locations covered, individuals insured, and the limits of indemnification. In life insurance, living and death benefits are listed.

**Convertible** - Term life insurance coverage that can be converted into permanent insurance regardless of an insured's physical condition and without a medical examination. The individual cannot be denied coverage or charged an additional premium for any health problems.

**Copayment** - A predetermined, flat fee an individual pays for health-care services, in addition to what insurance covers. For example, some HMOs require a \$10 copayment for each office visit, regardless of the type or level of services provided during the visit. Copayments are not usually specified by percentages.

**Cost-of-Living Adjustment (COLA)** - Automatic adjustment applied to Social Security retirement payments when the consumer price index increases at a rate of at least 3%, the first quarter of one year to the first quarter of the next year.

**Coverage Area** - The geographic region covered by travel insurance.

**Creditable Coverage** - Term means that benefits provided by other drug plans are at least as good as those provided by the new Medicare Part D program. This may be important to people eligible for Medicare Part D but who do not sign up at their first opportunity because if the other plans provide creditable coverage, plan members can later convert to Medicare Part D without paying higher premiums than those in effect during their open enrollment period.

**Current Liquidity (IRIS)** - The sum of cash, unaffiliated invested assets and encumbrances on other properties to net liabilities plus ceded reinsurance balances payable, expressed as a percent. This ratio measures the proportion of liabilities covered by unencumbered cash and unaffiliated investments. If this

ratio is less than 100, the company's solvency is dependent on the collectibility or marketability of premium balances and investments in affiliates. This ratio assumes the collectibility of all amounts recoverable from reinsurers on paid and unpaid losses and unearned premiums.

## D

**Death Benefit** - The limit of insurance or the amount of benefit that will be paid in the event of the death of a covered person.

**Deductible** - Amount of loss that the insured pays before the insurance kicks in.

**Developed to Net Premiums Earned** - The ratio of developed premiums through the year to net premiums earned. If premium growth was relatively steady, and the mix of business by line didn't materially change, this ratio measures whether or not a company's loss reserves are keeping pace with premium growth.

**Development to Policyholder Surplus (IRIS)** - The ratio measures reserve deficiency or redundancy in relation to policyholder surplus. This ratio reflects the degree to which year-end surplus was either overstated (+) or understated (-) in each of the past several years, if original reserves had been restated to reflect subsequent development through year end.

**Direct Premiums Written** - The aggregate amount of recorded originated premiums, other than reinsurance, written during the year, whether collected or not, at the close of the year, plus retrospective audit premium collections, after deducting all return premiums.

**Direct Writer** - An insurer whose distribution mechanism is either the direct selling system or the exclusive agency system.

**Disease Management** - A system of coordinated health-care interventions and communications for patients with certain illnesses.

**Dividend** - The return of part of the policy's premium for a policy issued on a participating basis by either a mutual or stock insurer. A portion of the surplus paid to the stockholders of a corporation.

## E

**Earned Premium** - The amount of the premium that has been paid for in advance that has been "earned" by virtue of the fact that time has passed without claim. A three-year policy that has been paid in advance and is one year old would have only partly earned the premium.

**Elimination Period** - The time which must pass after filing a claim before policyholder can collect insurance benefits. Also known as "waiting period."

**Employers Liability Insurance** - Coverage against common law liability of an employer for accidents to employees, as distinguished from liability imposed by a workers' compensation law.

**Encumbrance** - A claim on property, such as a mortgage, a lien for work and materials, or a right of dower. The interest of the property owner is reduced by the amount of the encumbrance.

**Exclusions** - Items or conditions that are not covered by the general insurance contract.

**Expense Ratio** - The ratio of underwriting expenses (including commissions) to net premiums written. This ratio measures the company's operational efficiency in underwriting its book of business.

**Exposure** - Measure of vulnerability to loss, usually expressed in dollars or units.

**Extended Replacement Cost** - This option extends replacement cost loss settlement to personal property and to outdoor antennas, carpeting, domestic appliances, cloth awnings, and outdoor equipment, subject to limitations on certain kinds of personal property; includes inflation protection coverage.

## F

**File-and-Use Rating Laws** - State-based laws which permit insurers to adopt new rates without the prior approval of the insurance department. Usually insurers submit their new rates with supporting statistical data.

**Financing Entity** - Provides money for purchases.

**Floater** - A separate policy available to cover the value of goods beyond the coverage of a standard renters insurance policy including movable property such as jewelry or sports equipment.

**Future Purchase Option** - Life and health insurance provisions that guarantee the insured the right to buy additional coverage without proving insurability. Also known as "guaranteed insurability option."

## G

**General Account** - All premiums are paid into an insurer's general account. Thus, buyers are subject to credit-risk exposure to the insurance company, which is low but not zero.

**General Liability Insurance** - Insurance designed to protect business owners and operators from a wide variety of liability exposures. Exposures could include liability arising from accidents resulting from the insured's premises or operations, products sold by the insured, operations completed by the insured, and contractual liability.

**Grace Period** - The length of time (usually 31 days) after a premium is due and unpaid during which the policy, including all riders, remains in force. If a premium is paid during the grace period, the premium is considered to have been paid on time. In Universal Life policies, it typically provides for coverage to remain in force for 60 days following the date cash value becomes insufficient to support the payment of monthly insurance costs.

**Gross Leverage** - The sum of net leverage and ceded reinsurance leverage. This ratio measures a company's gross exposure to pricing errors in its current book of business, to errors of estimating its liabilities, and exposure to its reinsurers.

**Guaranteed Insurability Option** - See "future purchase option."

**Guaranteed Issue Right** - The right to purchase insurance without physical examination; the present and past physical condition of the applicant are not considered.

**Guaranteed Renewable** - A policy provision in many products which guarantees the policyowner the right to renew coverage at every policy anniversary date. The company does not have the right to cancel coverage except for nonpayment of premiums by the policyowner; however, the company can raise rates if they choose.

**Guaranty Association** - An organization of life insurance companies within a state responsible for covering the financial obligations of a member company that becomes insolvent.

## H

**Hazard** - A circumstance that increases the likelihood or probable severity of a loss. For example, the storing of explosives in a home basement is a hazard that increases the probability of an explosion.

**Hazardous Activity** - Bungee jumping, scuba diving, horse riding and other activities not generally covered by standard insurance policies. For insurers that do provide cover for such activities, it is unlikely they will cover liability and personal accident, which should be provided by the company hosting the activity.

**Health Maintenance Organization (HMO)** - Prepaid group health insurance plan that entitles members to services of participating physicians, hospitals and

clinics. Emphasis is on preventative medicine, and members must use contracted health-care providers.

**Health Reimbursement Arrangement** - Owners of high-deductible health plans who are not qualified for a health savings account can use an HRA.

**Health Savings Account** - Plan that allows you to contribute pre-tax money to be used for qualified medical expenses. HSAs, which are portable, must be linked to a high-deductible health insurance policy.

**Hurricane Deductible** - Amount you must pay out-of-pocket before hurricane insurance will kick in. Many insurers in hurricane-prone states are selling homeowners insurance policies with percentage deductibles for storm damage, instead of the traditional dollar deductibles used for claims such as fire and theft. Percentage deductibles vary from one percent of a home's insured value to 15 percent, depending on many factors that differ by state and insurer.

I

**Impaired Insurer** - An insurer which is in financial difficulty to the point where its ability to meet financial obligations or regulatory requirements is in question.

**Indemnity** - Restoration to the victim of a loss by payment, repair or replacement.

**Independent Insurance Agents & Brokers of America (IIABA)** - Formerly the Independent Insurance Agents of America (IIAA), this is a member organization of independent agents and brokers monitoring and affecting industry issues. Numerous state associations are affiliated with the IIABA.

**Income Taxes** - Incurred income taxes (including income taxes on capital gains) reported in each annual statement for that year.

**Inflation Protection** - An optional property coverage endorsement offered by some insurers that increases the policy's limits of insurance during the policy term to keep pace with inflation.

**Insurable Interest** - Interest in property such that loss or destruction of the property could cause a financial loss.

**Insurance Adjuster** - A representative of the insurer who seeks to determine the extent of the insurer's liability for loss when a claim is submitted. Independent insurance adjusters are hired by insurance companies on an "as needed" basis and might work for several insurance companies at the same time. Independent adjusters charge insurance companies both by the hour and by miles traveled. Public adjusters work for the insured in the settlement of claims and receive a

percentage of the claim as their fee. A.M. Best's Directory of Recommended Insurance Attorneys and Adjusters lists independent adjusters only.

**Insurance Attorneys** - An attorney who practices the law as it relates to insurance matters. Attorneys might be solo practitioners or work as part of a law firm. Insurance companies who retain attorneys to defend them against law suits might hire staff attorneys to work for them in-house or they might retain attorneys on an as-needed basis. A.M. Best's Directory of Recommended Attorneys and Adjusters lists insurance defense attorneys who concentrate their practice in insurance defense such as coverage issues, bad faith, malpractice, products liability, and workers' compensation.

**Insurance Institute of America (IIA)** - An organization which develops programs and conducts national examinations in general insurance, risk management, management, adjusting, underwriting, auditing and loss control management.

**Interest-Crediting Methods** - There are at least 35 interest-crediting methods that insurers use. They usually involve some combination of point-to-point, annual reset, yield spread, averaging, or high water mark.

**Investment Income** - The return received by insurers from their investment portfolios including interest, dividends and realized capital gains on stocks. It doesn't include the value of any stocks or bonds that the company currently owns.

**Investments in Affiliates** - Bonds, stocks, collateral loans, short-term investments in affiliated and real estate properties occupied by the company.

**Insurance Regulatory Information System (IRIS)** - Introduced by the National Association of Insurance Commissioners in 1974 to identify insurance companies that might require further regulatory review.

## L

**Laddering** - Purchasing bond investments that mature at different time intervals.

**Lapse Ratio** - The ratio of the number of life insurance policies that lapsed within a given period to the number in force at the beginning of that period.

**Least Expensive Alternative Treatment** - The amount an insurance company will pay based on its determination of cost for a particular procedure.



**Leverage or Capitalization** - Measures the exposure of a company's surplus to various operating and financial practices. A highly leveraged, or poorly capitalized, company can show a high return on surplus, but might be exposed to a high risk of instability.

**Liability** - Broadly, any legally enforceable obligation. The term is most commonly used in a pecuniary sense.

**Liability Insurance** - Insurance that pays and renders service on behalf of an insured for loss arising out of his responsibility, due to negligence, to others imposed by law or assumed by contract.

**Licensed** - Indicates the company is incorporated (or chartered) in another state but is a licensed (admitted) insurer for this state to write specific lines of business for which it qualifies.

**Licensed for Reinsurance Only** - Indicates the company is a licensed (admitted) insurer to write reinsurance on risks in this state.

**Lifetime Reserve Days** - Sixty additional days Medicare pays for when you are hospitalized for more than 90 days in a benefit period. These days can only be used once during your lifetime. For each lifetime reserve day, Medicare pays all covered costs except for a daily coinsurance amount.

**Liquidity** - Liquidity is the ability of an individual or business to quickly convert assets into cash without incurring a considerable loss. There are two kinds of liquidity: quick and current. Quick liquidity refers to funds--cash, short-term investments, and government bonds--and possessions which can immediately be converted into cash in the case of an emergency. Current liquidity refers to current liquidity plus possessions such as real estate which cannot be immediately liquidated, but eventually can be sold and converted into cash. Quick liquidity is a subset of current liquidity. This reflects the financial stability of a company and thus their rating.

**Living Benefits** - This feature allows you, under certain circumstances, to receive the proceeds of your life insurance policy before you die. Such circumstances include terminal or catastrophic illness, the need for long-term care, or confinement to a nursing home. Also known as "accelerated death benefits."

**Lloyd's** - Generally refers to Lloyd's of London, England, an institution within which individual underwriters accept or reject the risks offered to them. The Lloyd's Corp. provides the support facility for their activities.

**Lloyds Organizations** - These organizations are voluntary unincorporated associations of individuals. Each individual assumes a specified portion of the liability under each policy issued. The underwriters operate through a common attorney-in-fact appointed for this purpose by the underwriters. The laws of most states contain some provisions governing the formation and operation of such organizations, but these laws don't generally provide as strict a supervision and control as the laws dealing with incorporated stock and mutual insurance companies.

**Loss Adjustment Expenses** - Expenses incurred to investigate and settle losses.

**Loss and Loss-Adjustment Reserves to Policyholder Surplus Ratio** - The higher the multiple of loss reserves to surplus, the more a company's solvency is dependent upon having and maintaining reserve adequacy.

**Losses and Loss-Adjustment Expenses** - This represents the total reserves for unpaid losses and loss-adjustment expenses, including reserves for any incurred but not reported losses, and supplemental reserves established by the company. It is the total for all lines of business and all accident years.

**Loss Control** - All methods taken to reduce the frequency and/or severity of losses including exposure avoidance, loss prevention, loss reduction, segregation of exposure units and noninsurance transfer of risk. A combination of risk control techniques with risk financing techniques forms the nucleus of a risk management program. The use of appropriate insurance, avoidance of risk, loss control, risk retention, self insuring, and other techniques that minimize the risks of a business, individual, or organization.

**Loss Ratio** - The ratio of incurred losses and loss-adjustment expenses to net premiums earned. This ratio measures the company's underlying profitability, or loss experience, on its total book of business.

**Loss Reserve** - The estimated liability, as it would appear in an insurer's financial statement, for unpaid insurance claims or losses that have occurred as of a given evaluation date. Usually includes losses incurred but not reported (IBNR), losses due but not yet paid, and amounts not yet due. For individual claims, the loss reserve is the estimate of what will ultimately be paid out on that claim.

**Losses Incurred (Pure Losses)** - Net paid losses during the current year plus the change in loss reserves since the prior year end.

# M

**Medical Loss Ratio** - Total health benefits divided by total premium.

**Member Month** - Total number of health plan participants who are members for each month.

**Mortality and Expense Risk Fees** - A charge that covers such annuity contract guarantees as death benefits.

**Mortgage Insurance Policy** - In life and health insurance, a policy covering a mortgagor with benefits intended to pay off the balance due on a mortgage upon the insured's death, or to meet the payments due on a mortgage in case of the insured's death or disability.

**Mutual Insurance Companies** - Companies with no capital stock, and owned by policyholders. The earnings of the company--over and above the payments of the losses, operating expenses and reserves--are the property of the policyholders. There are two types of mutual insurance companies. A nonassessable mutual charges a fixed premium and the policyholders cannot be assessed further. Legal reserves and surplus are maintained to provide payment of all claims. Assessable mutuals are companies that charge an initial fixed premium and, if that isn't sufficient, might assess policyholders to meet losses in excess of the premiums that have been charged.

# N

**Named Perils** - Perils specifically covered on insured property.

**National Association of Insurance Commissioners (NAIC)** - Association of state insurance commissioners whose purpose is to promote uniformity of insurance regulation, monitor insurance solvency and develop model laws for passage by state legislatures.

**Net Income** - The total after-tax earnings generated from operations and realized capital gains as reported in the company's NAIC annual statement on page 4, line 16.

**Net Investment Income** - This item represents investment income earned during the year less investment expenses and depreciation on real estate. Investment expenses are the expenses related to generating investment income and capital gains but exclude income taxes.

**Net Leverage** - The sum of a company's net premium written to policyholder surplus and net liabilities to policyholder surplus. This ratio measures the combination of a company's net exposure to pricing errors in its current book of business and errors of estimation in its net liabilities after reinsurance, in relation to policyholder surplus.

**Net Liabilities to Policyholder Surplus** - Net liabilities expressed as a ratio to policyholder surplus. Net liabilities equal total liabilities less conditional reserves, plus encumbrances on real estate, less the smaller of receivables from or payable to affiliates. This ratio measures company's exposures to errors of estimation in its loss reserves and all other liabilities. Loss-reserve leverage is generally the key component of net liability leverage. The higher the loss-reserve leverage the more critical a company's solvency depends upon maintaining reserve adequacy.

**Net Premium** - The amount of premium minus the agent's commission. Also, the premium necessary to cover only anticipated losses, before loading to cover other expenses.

**Net Premiums Earned** - The adjustment of net premiums written for the increase or decrease of the company's liability for unearned premiums during the year. When an insurance company's business increases from year to year, the earned premiums will usually be less than the written premiums. With the increased volume, the premiums are considered fully paid at the inception of the policy so that, at the end of a calendar period, the company must set up premiums representing the unexpired terms of the policies. On a decreasing volume, the reverse is true.

**Net Premiums Written** - Represents gross premium written, direct and reinsurance assumed, less reinsurance ceded.

**Net Underwriting Income** - Net premiums earned less incurred losses, loss-adjustment expenses, underwriting expenses incurred, and dividends to policyholders.

**Nonstandard Auto (High Risk Auto or Substandard Auto)** - Insurance for motorists who have poor driving records or have been canceled or refused insurance. The premium is much higher than standard auto due to the additional risks.

**Net Premiums Written to Policyholder Surplus (IRIS)** - This ratio measures a company's net retained premiums written after reinsurance assumed and ceded, in relation to its surplus. This ratio measures the company's exposure to pricing errors in its current book of business.

**Non-Recourse Mortgage** - A home loan in which the borrower can never owe more than the home's value at the time the loan is repaid.

**Noncancellable** - Contract terms, including costs that can never be changed.

## O

**Occurrence** - An event that results in an insured loss. In some lines of business, such as liability, an occurrence is distinguished from accident in that the loss doesn't have to be sudden and fortuitous and can result from continuous or repeated exposure which results in bodily injury or property damage neither expected nor intended by the insured.

**Operating Cash Flow** - Measures the funds generated from insurance operations, which includes the change in cash and invested assets attributed to underwriting activities, net investment income and federal income taxes. This measure excludes stockholder dividends, capital contributions, unrealized capital gains/losses and various noninsurance related transactions with affiliates. This test measures a company's ability to meet current obligations through the internal generation of funds from insurance operations. Negative balances might indicate unprofitable underwriting results or low yielding assets.

**Operating Ratio (IRIS)** - Combined ratio less the net investment income ratio (net investment income to net premiums earned). The operating ratio measures a company's overall operational profitability from underwriting and investment activities. This ratio doesn't reflect other operating income/expenses, capital gains or income taxes. An operating ratio of more than 100 indicates a company is unable to generate profits from its underwriting and investment activities.

**Other Income/Expenses** - This item represents miscellaneous sources of operating income or expenses that principally relate to premium finance income or charges for uncollectible premium and reinsurance business.

**Out-of-Pocket Limit** - A predetermined amount of money that an individual must pay before insurance will pay 100% for an individual's health-care expenses.

**Overall Liquidity Ratio** - Total admitted assets divided by total liabilities less conditional reserves. This ratio indicates a company's ability to cover net liabilities with total assets. This ratio doesn't address the quality and marketability of premium balances, affiliated investments and other uninvested assets.

**Own Occupation** - Insurance contract provision that allows policyholders to collect benefits if they can no longer work in their own occupation.

# P

**Paid-Up Additional Insurance** - An option that allows the policyholder to use policy dividends and/or additional premiums to buy additional insurance on the same plan as the basic policy and at a face amount determined by the insured's attained age.

**Participation Rate** - In equity-indexed annuities, a participation rate determines how much of the gain in the index will be credited to the annuity. For example, the insurance company may set the participation rate at 80%, which means the annuity would only be credited with 80% of the gain experienced by the index.

**Peril** - The cause of a possible loss.

**Personal Injury Protection** - Pays basic expenses for an insured and his or her family in states with no-fault auto insurance. No-fault laws generally require drivers to carry both liability insurance and personal injury protection coverage to pay for basic needs of the insured, such as medical expenses, in the event of an accident.

**Personal Lines** - Insurance for individuals and families, such as private-passenger auto and homeowners insurance.

**Point-of-Service Plan** - Health insurance policy that allows the employee to choose between in-network and out-of-network care each time medical treatment is needed.

**Policy** - The written contract effecting insurance, or the certificate thereof, by whatever name called, and including all clause, riders, endorsements, and papers attached thereto and made a part thereof.

**Policyholder Dividend Ratio** - The ratio of dividends to policyholders related to net premiums earned.

**Policyholder Surplus** - The sum of paid in capital, paid in and contributed surplus, and net earned surplus, including voluntary contingency reserves. It also is the difference between total admitted assets and total liabilities.

**Policy or Sales Illustration** - Material used by an agent and insurer to show how a policy may perform under a variety of conditions and over a number of years.

**Pre-Existing Condition** - A coverage limitation included in many health policies which states that certain physical or mental conditions, either previously diagnosed or which would normally be expected to require treatment prior to issue, will not be covered under the new policy for a specified period of time.

**Preferred Auto** - Auto coverage for drivers who have never had an accident and operates vehicles according to law. Drivers are not a risk for any insurance company that writes auto insurance, and no insurance company would be afraid to take them on as risk.

**Preferred Provider Organization** - Network of medical providers who charge on a fee-for-service basis, but are paid on a negotiated, discounted fee schedule.

**Premium** - The price of insurance protection for a specified risk for a specified period of time.

**Premium Balances** - Premiums and agents' balances in course of collection; premiums, agents' balances and installments booked but deferred and not yet due; bills receivable, taken for premiums and accrued retrospective premiums.

**Premium Earned** - The amount of the premium that has been paid for in advance that has been "earned" by virtue of the fact that time has passed without claim. A three-year policy that has been paid in advance and is one year old would have only partly earned the premium.

**Premium to Surplus Ratio** - This ratio is designed to measure the ability of the insurer to absorb above-average losses and the insurer's financial strength. The ratio is computed by dividing net premiums written by surplus. An insurance company's surplus is the amount by which assets exceed liabilities. The ratio is computed by dividing net premiums written by surplus. For example, a company with \$2 in net premiums written for every \$1 of surplus has a 2-to-1 premium to surplus ratio. The lower the ratio, the greater the company's financial strength. State regulators have established a premium-to-surplus ratio of no higher than 3-to-1 as a guideline.

**Premium Unearned** - That part of the premium applicable to the unexpired part of the policy period.

**Pretax Operating Income** - Pretax operating earnings before any capital gains generated from underwriting, investment and other miscellaneous operating sources.

**Pretax Return on Revenue** - A measure of a company's operating profitability and is calculated by dividing pretax operating earnings by net premiums earned.

**Private-Passenger Auto Insurance Policyholder Risk Profile** - This refers to the risk profile of auto insurance policyholders and can be divided into three categories: standard, nonstandard and preferred. In the eyes of an insurance company, it is the type of business (or the quality of driver) that the company has chosen to take on.

**Profit** - A measure of the competence and ability of management to provide viable insurance products at competitive prices and maintain a financially strong company for both policyholders and stockholders.

**Protected Cell Company (PCC)** - A PCC is a single legal entity that operates segregated accounts, or cells, each of which is legally protected from the liabilities of the company's other accounts. An individual client's account is insulated from the gains and losses of other accounts, such that the PCC sponsor and each client are protected against liquidation activities by creditors in the event of insolvency of another client.

## Q

**Qualified High-Deductible Health Plan** - A health plan with lower premiums that covers health-care expenses only after the insured has paid each year a large amount out of pocket or from another source. To qualify as a health plan coupled with a Health Savings Account, the Internal Revenue Code requires the deductible to be at least \$1,000 for an individual and \$2,000 for a family. High-deductible plans are also known as catastrophic plans.

**Qualified Versus Non-Qualified Policies** - Qualified plans are those employee benefit plans that meet Internal Revenue Service requirements as stated in IRS Code Section 401a. When a plan is approved, contributions made by the employer are tax deductible expenses.

**Qualifying Event** - An occurrence that triggers an insured's protection.

**Quick Assets** - Assets that are quickly convertible into cash.

**Quick Liquidity Ratio** - Quick assets divided by net liabilities plus ceded reinsurance balances payable. Quick assets are defined as the sum of cash, unaffiliated short-term investments, unaffiliated bonds maturing within one year, government bonds maturing within five years, and 80% of unaffiliated common stocks. These assets can be quickly converted into cash in the case of an emergency.

## R

**Reciprocal Insurance Exchange** - An unincorporated groups of individuals, firms or corporations, commonly termed subscribers, who mutually insure one another, each separately assuming his or her share of each risk. Its chief administrator is an attorney-in-fact.

**Re-Entry** - Re-entry, which is the allowance for level-premium term policyowners to qualify for another level-premium period, generally with new evidence of insurability.



**Reinsurance** - In effect, insurance that an insurance company buys for its own protection. The risk of loss is spread so a disproportionately large loss under a single policy doesn't fall on one company. Reinsurance enables an insurance company to expand its capacity; stabilize its underwriting results; finance its expanding volume; secure catastrophe protection against shock losses; withdraw from a line of business or a geographical area within a specified time period.

**Reinsurance Ceded** - The unit of insurance transferred to a reinsurer by a ceding company.

**Reinsurance Recoverables to Policyholder Surplus** - Measures a company's dependence upon its reinsurers and the potential exposure to adjustments on such reinsurance. Its determined from the total ceded reinsurance recoverables due from non-U.S. affiliates for paid losses, unpaid losses, losses incurred but not reported (IBNR), unearned premiums and commissions less funds held from reinsurers expressed as a percent of policyholder surplus.

**Renewal** - The automatic re-establishment of in-force status effected by the payment of another premium.

**Replacement Cost** - The dollar amount needed to replace damaged personal property or dwelling property without deducting for depreciation but limited by the maximum dollar amount shown on the declarations page of the policy.

**Reserve** - An amount representing actual or potential liabilities kept by an insurer to cover debts to policyholders. A reserve is usually treated as a liability.

**Residual Benefit** - In disability insurance, a benefit paid when you suffer a loss of income due to a covered disability or if loss of income persists. This benefit is based on a formula specified in your policy and it is generally a percentage of the full benefit. It may be paid up to the maximum benefit period.

**Return on Policyholder Surplus (Return on Equity)** - The sum of after-tax net income and unrealized capital gains, to the mean of prior and current year-end policyholder surplus, expressed as a percent. This ratio measures a company's overall after-tax profitability from underwriting and investment activity.

**Risk Class** - Risk class, in insurance underwriting, is a grouping of insureds with a similar level of risk. Typical underwriting classifications are preferred, standard and substandard, smoking and nonsmoking, male and female.

**Risk Management** - Management of the pure risks to which a company might be subject. It involves analyzing all exposures to the possibility of loss and determining how to handle these exposures through practices such as avoiding the risk, retaining the risk, reducing the risk, or transferring the risk, usually by insurance.

**Risk Retention Groups** - Liability insurance companies owned by their policyholders. Membership is limited to people in the same business or activity, which exposes them to similar liability risks. The purpose is to assume and spread liability exposure to group members and to provide an alternative risk financing mechanism for liability. These entities are formed under the Liability Risk Retention Act of 1986. Under law, risk retention groups are precluded from writing certain coverages, most notably property lines and workers' compensation. They predominately write medical malpractice, general liability, professional liability, products liability and excess liability coverages. They can be

## S

**Secondary Market** - The secondary market is populated by buyers willing to pay what they determine to be fair market value.

**Section 1035 Exchange** - This refers to a part of the Internal Revenue Code that allows owners to replace a life insurance or annuity policy without creating a taxable event.

**Section 7702** - Part of the Internal Revenue Code that defines the conditions a life policy must satisfy to qualify as a life insurance contract, which has tax advantages.

**Separate Account** - A separate account is an investment option that is maintained separately from an insurer's general account. Investment risk associated with separate-account investments is born by the contract owner.

**Solvency** - Having sufficient assets--capital, surplus, reserves--and being able to satisfy financial requirements--investments, annual reports, examinations--to be eligible to transact insurance business and meet liabilities.

**Standard Auto** - Auto insurance for average drivers with relatively few accidents during lifetime.

**State of Domicile** - The state in which the company is incorporated or chartered. The company also is licensed (admitted) under the state's insurance statutes for those lines of business for which it qualifies.

**Statutory Reserve** - A reserve, either specific or general, required by law.

**Stock Insurance Company** - An incorporated insurer with capital contributed by stockholders, to whom earnings are distributed as dividends on their shares.

**Stop Loss** - Any provision in a policy designed to cut off an insurer's losses at a given point.

**Subaccount Charge** - The fee to manage a subaccount, which is an investment option in variable products that is separate from the general account.

**Subrogation** - The right of an insurer who has taken over another's loss also to take over the other person's right to pursue remedies against a third party.

**Successive Periods** - In hospital income protection, when confinements in a hospital are due to the same or related causes and are separated by less than a contractually stipulated period of time, they are considered part of the same period of confinement.

**Surplus** - The amount by which assets exceed liabilities.

**Surrender Charge** - Fee charged to a policyholder when a life insurance policy or annuity is surrendered for its cash value. This fee reflects expenses the insurance company incurs by placing the policy on its books, and subsequent administrative expenses.

**Surrender Period** - A set amount of time during which you have to keep the majority of your money in an annuity contract. Most surrender periods last from five to 10 years. Most contracts will allow you to take out at least 10% a year of the accumulated value of the account, even during the surrender period. If you take out more than that 10%, you will have to pay a surrender charge on the amount that you have withdrawn above that 10%.

## T

**Term Life Insurance** - Life insurance that provides protection for a specified period of time. Common policy periods are one year, five years, 10 years or until the insured reaches age 65 or 70. The policy doesn't build up any of the nonforfeiture values associated with whole life policies.

**Tort** - A private wrong, independent of contract and committed against an individual, which gives rise to a legal liability and is adjudicated in a civil court. A tort can be either intentional or unintentional, and liability insurance is mainly purchased to cover unintentional torts.

**Total Admitted Assets** - This item is the sum of all admitted assets, and are valued in accordance with state laws and regulations, as reported by the company in its financial statements filed with state insurance regulatory authorities. This item is reported net as to encumbrances on real estate (the amount of any encumbrances on real estate is deducted from the value of the real estate) and net as to amounts recoverable from reinsurers (which are deducted from the corresponding liabilities for unpaid losses and unearned premiums).

**Total Annual Loan Cost** - The projected annual average cost of a reverse mortgage including all itemized costs.

**Total Loss** - A loss of sufficient size that it can be said no value is left. The complete destruction of the property. The term also is used to mean a loss requiring the maximum amount a policy will pay.

## U

**Umbrella Policy** - Coverage for losses above the limit of an underlying policy or policies such as homeowners and auto insurance. While it applies to losses over the dollar amount in the underlying policies, terms of coverage are sometimes broader than those of underlying policies.

**Unaffiliated Investments** - These investments represent total unaffiliated investments as reported in the exhibit of admitted assets. It is cash, bonds, stocks, mortgages, real estate and accrued interest, excluding investment in affiliates and real estate properties occupied by the company.

**Underwriter** - The individual trained in evaluating risks and determining rates and coverages for them. Also, an insurer.

**Underwriting** - The process of selecting risks for insurance and classifying them according to their degrees of insurability so that the appropriate rates may be assigned. The process also includes rejection of those risks that do not qualify.

**Underwriting Expenses Incurred** - Expenses, including net commissions, salaries and advertising costs, which are attributable to the production of net premiums written.

**Underwriting Expense Ratio** - This represents the percentage of a company's net premiums written that went toward underwriting expenses, such as commissions to agents and brokers, state and municipal taxes, salaries, employee benefits and other operating costs. The ratio is computed by dividing underwriting expenses by net premiums written. The ratio is computed by dividing underwriting expenses by net premiums written. A company with an underwriting expense ratio of 31.3% is spending more than 31 cents of every dollar of net premiums written to pay underwriting costs. It should be noted that different lines of business have intrinsically differing expense ratios. For example, boiler and machinery insurance, which requires a corps of skilled inspectors, is a high expense ratio line. On the other hand, expense ratios are usually low on group health insurance.

**Underwriting Guide** - Details the underwriting practices of an insurance company and provides specific guidance as to how underwriters should analyze all of the various types of applicants they might encounter. Also called an underwriting manual, underwriting guidelines, or manual of underwriting policy.

**Unearned Premiums** - That part of the premium applicable to the unexpired part of the policy period.

**Uninsured Motorist Coverage** - Endorsement to a personal automobile policy that covers an insured collision with a driver who does not have liability insurance.

**Universal Life Insurance** - A combination flexible premium, adjustable life insurance policy.

**Usual, Customary and Reasonable Fees** - An amount customarily charged for or covered for similar services and supplies which are medically necessary, recommended by a doctor or required for treatment.

**Utilization** - How much a covered group uses a particular health plan or program.

## V

**Valuation** - A calculation of the policy reserve in life insurance. Also, a mathematical analysis of the financial condition of a pension plan.

**Valuation Reserve** - A reserve against the contingency that the valuation of assets, particularly investments, might be higher than what can be actually realized or that a liability may turn out to be greater than the valuation placed on it.

**Variable Annuitization** - The act of converting a variable annuity from the accumulation phase to the payout phase.

**Variable Life Insurance** - A form of life insurance whose face value fluctuates depending upon the value of the dollar, securities or other equity products supporting the policy at the time payment is due.

**Variable Universal Life Insurance** - A combination of the features of variable life insurance and universal life insurance under the same contract. Benefits are variable based on the value of underlying equity investments, and premiums and benefits are adjustable at the option of the policyholder.

**Viatical Settlement Provider** - Someone who serves as a sales agent, but does not actually purchase policies.

**Viator** - The terminally ill person who sells his or her life insurance policy.

**Voluntary Reserve** - An allocation of surplus not required by law. Insurers often accumulate such reserves to strengthen their financial structure.

## **W**

**Waiting Period** - See "elimination period."

**Waiver of Premium** - A provision in some insurance contracts which enables an insurance company to waive the collection of premiums while keeping the policy in force if the policyholder becomes unable to work because of an accident or injury. The waiver of premium for disability remains in effect as long as the insured is disabled.

**Whole Life Insurance** - Life insurance which might be kept in force for a person's whole life and which pays a benefit upon the person's death, whenever that might be.

## C. PERSONAL INJURY LEGAL TERMS GLOSSARY

*This glossary is a compilation of personal injury legal terms derived from various free resources on the world-wide-web internet. Information is intended to be of a general nature only and is not necessarily comprehensive. Personal injury is a complex field and changes rapidly; therefore, it would be impossible to include every applicable term.*

### A

**Abstract of Title:** A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.

**Accomplice:** 1. A partner in a crime. 2. A person who knowingly and voluntarily participates with another in a criminal activity.

**Acknowledgment:** 1. A statement of acceptance of responsibility. 2. The short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

**Acquit:** To find a defendant not guilty in a criminal trial.

**Action:** In the legal sense, a formal complaint or a suit brought in court.

**Action:** Proceeding taken in a court of law. Synonymous with case, suit, lawsuit.

**Additional Insured:** A person other than the named insured or covered person who is protected under the named insured's auto policy.

**Additur:** An increase by a judge in the amount of damages awarded by a jury.

**Adjudication:** Giving or pronouncing a judgment or decree. Also the judgment given.

**Ad Litem:** A Latin term meaning for the purposes of the lawsuit. For example, a guardian "ad litem" is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.

**Administrative Agency.** Governmental body responsible for administering and implementing a particular legislation, such as laws governing traffic safety or workers' compensation. These agencies may have rulemaking power and judge-like authority to decide disputes.

**Administrative Hearing.** Proceeding before an administrative agency which consists of an argument, a trial, or both. Rules governing the proceeding, including rules of evidence, are generally less strict than in civil or criminal trials.

**Administrator:** Person appointed by a court to administer a deceased person's estate. The person may be male (in which case, he would be referred to as the "administrator") or female (in which case, she would be referred to as the "administratrix").

**Admissible evidence:** Evidence that can be legally and properly introduced in a civil or criminal trial.

**Adversary Proceeding.** Legal proceeding involving parties with opposing interests, with one party seeking legal relief and the other opposing it. Basic U.S. trial system in which each of the opposing parties has opportunity to state his viewpoints before the court. Plaintiff argues for defendant's guilt (criminal) or liability (civil). Defense argues for defendant's innocence (criminal) or against liability (civil).

**Affiant:** A person who makes and signs an affidavit.

**Affidavit:** A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths. For example, in criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search. In civil cases, affidavits of witnesses are often used to support motions for summary judgment.

**Affirm:** The assertion of an appellate court that the judgment of the lower court is correct and should stand.

**Agreement:** Mutual assent between two or more parties; normally leads to a contract; may be verbal or written.

**Aid and Abet:** To actively, knowingly or intentionally assist another person in the commission or attempted commission of a crime.

**Allegation.** The claim made in a pleading by a party to an action setting out what he or she expects to prove.

**Alleged:** Stated; recited; claimed; asserted; charged.

**Alternative Dispute Resolution:** Settling a dispute without a full, formal trial. Methods include mediation, conciliation, arbitration, and settlement, among others.

**Amicus Curiae.** (Latin: "friend of the court.") Person or organization that files a legal brief with the court expressing its views on a case involving other parties because it has a strong interest in the subject matter of the action.

**Answer:** A formal response to a claim, admitting or denying the allegations in the claim.

**Appeal.** Request to a superior or higher court to review and change the result in a case decided by an inferior or lower court or administrative agency.



**Appearance:** 1. The formal proceeding by which a defendant submits to the jurisdiction of the court. 2. A written notification to the plaintiff by an attorney stating that he or she is representing the defendant.

**Appellate Court.** A court having jurisdiction to hear an appeal and review the decisions of a lower or inferior court.

**Arbitration:** A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party and agree to abide by his or her decision. In arbitration there is a hearing at which both parties have an opportunity to be heard.

**Arbitrator:** A person who conducts an arbitration.

**Arraignment:** A proceeding in which an individual who is accused of committing a crime is brought into court, told of the charges, and asked to plead guilty or not guilty. Sometimes called a preliminary hearing or initial appearance.

**Arrest:** To take into custody by legal authority.

**Assault.** A willful attempt or threat to harm another person, coupled with the present ability to inflict injury on that person, which causes apprehension in that person. Although the term "assault" is frequently used to describe the use of illegal force, the correct legal term for use of illegal force is "battery."

**Assigned Risk:** A risk not ordinarily acceptable to insurers which is, according to state law, assigned to insurers participating in a plan in which the insurers agree to accept their share of these risks.

**Assumption of the Risk.** When a person voluntarily and knowingly proceeds in the face of an obvious and known danger, she assumes the risk. A person found to have assumed the risk cannot make out the duty element of a negligence cause of action. The theory behind the rule is that a person who chooses to take a risk cannot later complain that she was injured by the risk that she chose to take. Therefore, she will not be permitted to seek money damages from those who might have otherwise been responsible.

**At issue:** The time in a lawsuit when the complaining party has stated his claim and the other side has responded with denial and the matter is ready to be tried.

**Attorney-Client Privilege.** Client's privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and his or her attorney.

**Attorney-in-Fact:** A private person (who is not necessarily a lawyer) authorized by another to act in his or her place, either for some particular purpose, as to do a specific act, or for the transaction of business in general, not of legal character. This authority is

conferred by an instrument in writing, called a letter of attorney, or more commonly a power of attorney.

**Attorney of Record:** The principal attorney in a lawsuit, who signs all formal documents relating to the suit.

## B

**Bad faith:** Intention to mislead or deceive; conscious refusal to fulfill some duty. Implies active ill will, as opposed to negligence. Bad faith is not bad judgment; it requires conscious wrongdoing.

**Bail:** Money or other security (such as a bail bond) provided to the court to temporarily allow a person's release from jail and assure their appearance in court. "Bail" and "bond" are often used interchangeably.

**Bail Bond:** An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not properly appearing for the trial. Often referred to simply as bond.

**Bailiff:** Court officer responsible for keeping order in the court, custody of the jury, and custody of prisoners while in court.

**Bankruptcy:** Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released from or "discharged" from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person with the debts is called the debtor and the people or companies to whom the debtor owes money to are called creditors.

**Bar:** 1. Historically, the partition separating the general public from the space occupied by the judges, lawyers, and other participants in a trial. 2. More commonly, the term means the whole body of lawyers.

**Bar Examination:** A state examination taken by prospective lawyers in order to be admitted and licensed to practice law.

**Basic Limits of Liability:** The least amount of liability coverage that can be purchased. In determining rates, a carrier will use the basic limits to develop the base rates. If an insured person wants higher limits, the carrier applies an increased limits factor to the base rate in calculating the new premium for the increased coverage.

**Battery:** The unlawful use of force resulting in the injury of another. Battery always includes assault. See assault.

**Bench:** The seat occupied by the judge. More broadly, the court itself.

**Bench Trial or Non-jury Trial:** Trial before a judge and without a jury. In a bench trial, the judge decides questions of law and questions of fact.

**Bench Warrant:** An order issued by a judge for the arrest of a person.

**Beneficiary:** Someone named to receive property or benefits in a will. In a trust, a person who is to receive benefits from the trust.

**Bequeath:** To give a gift to someone through a will.

**Bequests:** Gifts made in a will.

**Best Evidence:** The most direct evidence possible, such as producing an original document to prove that the document exists and what it states. A copy of a document or testimony by a witness would be "secondary evidence." The best evidence rule prohibits the introduction of secondary evidence unless best evidence cannot be obtained, so long as the party seeking to introduce the secondary evidence is not at fault in making the best evidence incapable of being obtained.

**Beyond a Reasonable Doubt:** The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

**Bill of Particulars:** A statement of the details of the charge made against the defendant.

**Binding Authority:** Law that controls the outcome of a case. For example, a decision on the same point of law by a higher court in the same state must be followed by a lower court in that state. See precedent.

**Bind Over:** To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accused's appearance at trial.

**Bodily Injury Liability:** Legal liability for causing physical injury or death to another.

**Booking:** The process of photographing, fingerprinting, and recording identifying data of a suspect. This process follows the arrest.

**Breach of Contract:** Failure, without legal excuse, to perform all or some of the promises made in a contract.

**Brief:** Written document, usually prepared by an attorney, submitted to the court about a case, containing summaries of the facts of the case, relevant laws, and an argument showing how the laws support that party's position.

**Burden of Proof or Standard of Proof:** Degree of proof required in a specific kind of case to prevail. In the majority of civil cases, it is proof by a preponderance of the evidence.

**Bystander:** In products liability law, a person who neither buys nor uses a product, but who nevertheless is injured by the product and may have a cause of action.

## C

**Calendar:** List of cases scheduled for hearing in court.

**Capacity Defense:** Broadly, describes a defendant's lack of some fundamental ability to be held accountable. For example, in Pennsylvania, persons under 7 years of age are presumed incapable of negligence.

**Capital crime:** A crime punishable by death.

**Caption:** The heading on a legal document listing the parties, the court, the case number, and related information.

**Case:** Any proceeding, action, cause, lawsuit or controversy initiated through the court system by filing a complaint, petition, indictment or information.

**Case Law:** Law established by previous decisions of appellate courts, particularly the Supreme Court.

**Casualty:** A loss of property due to fire, storm shipwreck or other casualty, which is allowable as a deduction in computing taxable income.

**Cause:** A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

**Cause of action:** A legal claim.

**Causation:** The act by which an effect is produced. See also "legal cause" and "proximate cause."

**Cause of Action:** Fact or facts that give someone the right to seek a remedy through the court because the facts of the case apply to a certain law sought to be enforced.

**Caveat:** A warning; a note of caution.

**Certification:** 1. Written attestation. 2. Authorized declaration verifying that an instrument is a true and correct copy of the original.

**Certiorari:** (Latin: "To be informed of.") Writ issued by a superior or higher court to a lower court requiring the lower court to produce a certified record of a case tried there so that the superior court can examine the lower court proceedings for errors. See record.

**Challenge:** An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

**Challenge for Cause:** Objection to the seating of a particular juror for a stated reason (usually bias or prejudice for or against one of the parties in the lawsuit). The judge has the discretion to deny the challenge. This differs from peremptory challenge.

**Chambers:** A judge's private office. A hearing in chambers takes place in the judge's office outside of the presence of the jury and the public.

**Change of Venue:** Moving a lawsuit or criminal trial to another place for trial.

**Charge to the Jury:** The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

**Chief Judge:** Presiding or Administrative Judge in a court.

**Circumstantial Evidence:** Evidence not based on actual personal knowledge or observation of the fact in dispute, but, rather, evidence of other personal knowledge or observation which allows a jury to infer the existence or nonexistence of the fact in dispute. An example of direct evidence of who was at fault for a car accident would be a witness who actually saw the accident. An example of circumstantial evidence in this case, would be a witness who drove by after the impact and saw the defendant's car in the wrong lane.

**Citation:** 1. A reference to a source of legal authority. 2. A direction to appear in court, as when a defendant is cited into court, rather than arrested.

**Civil Actions:** Noncriminal cases in which one private individual or business sues another to protect, enforce, or redress private or civil rights.

**Civil Action:** Action brought to enforce private rights. Generally, all actions except criminal actions.

**Civil Law:** Body of law concerned with private rights and remedies, as contrasted with criminal law. All law that is not criminal law. Usually pertains to the settlement of disputes between individuals, organizations or groups and having to do with the establishment, recovery or redress of private and civil rights.

**Civil Procedure:** The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

**Claim:** The assertion of a right to money or property.

**Claim Petition:** In cases where a worker is injured on the job, the injured employee files a claim petition to seek initial compensation. This occurs when there has been a Notice of Denial - no workers' compensation payments have been made or medical benefits have not been paid.

**Class Action:** A means by which one or more individuals are able to sue for themselves and as representatives of other people. A class action requires: an identifiable group of people with a well-defined interest in the facts and law of the suit; too many people in the group for it to be practical to bring them all before the court; and the individuals bringing suit are able to adequately represent the entire group.

**Clear and Convincing Evidence:** Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to win the case.

**Clemency or Executive Clemency:** Act of grace or mercy by the president or governor to ease the consequences of a criminal act, accusation, or conviction. It may take the form of commutation or pardon.

**Clerk of the court:** An officer of a court whose principal duty is to maintain court records and preserve evidence presented during a trial.

**Closing Argument:** The closing statement, by counsel, to the trier of facts after all parties have concluded their presentation of evidence.

**Code:** A collection, compendium or revision of laws systematically arranged into chapters, table of contents and index and promulgated by legislative authority.

**Codicil (kod'i-sil):** An amendment to a will.

**Co- Defendant:** A defendant joined together with one or more other defendants in the same case.

**Collateral Source Rule:** The rule ensures that compensation awarded to a plaintiff in a lawsuit will not be reduced if the plaintiff receives compensation for the same injury from another source, such as insurance. Under the rule, a defendant tortfeasor is unable to benefit from the fact that the plaintiff received money from another source, such as insurance, because of the defendant's tort.

**Collision Insurance:** This covers loss to the insured person's own auto caused by its collision with another vehicle or object.

**Commit:** To send a person to prison, asylum, or reformatory by a court order.

**Common Law:** Law deriving its authority from usage and customs or judgments of courts recognizing and enforcing such usages and customs. Generally, law made by judges rather than by legislatures.

**Commutation:** The reduction of a sentence, as from death to life imprisonment.

**Comparative Negligence:** Comparing the plaintiff's contributory negligence to the defendant's negligence. Negligence of a plaintiff in a civil suit which decreases his recovery by his percentage of negligence compared to a defendant's negligence.

**Compensation:** Something that makes up for a loss. In workers' compensation cases, it refers to payment to unemployed or injured workers or their dependents.

**Competency:** In the law of evidence, the presence of those characteristics which render a witness legally fit and qualified to give testimony.

**Complaint:** In the legal sense, the document a plaintiff files with the court which contains allegations and damages sought. A complaint generally starts a lawsuit.

**Complainant:** The party who complains or sues; one who applies to the court for legal redress. Also called the plaintiff.

**Comprehensive Coverage:** Covers damage to a vehicle caused by an event other than a collision or overturn. Examples include fire, theft, vandalism, and falling objects.

**Compromise and Release:** In workers' compensation cases, this occurs when a lump sum payment of money is paid by the insurance carrier to an injured worker to resolve the case. This lump sum is in lieu of the weekly compensation benefits the injured worker is receiving and may or may not include future medical benefits.

**Conciliation:** A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications, and explore possible solutions. Conciliation is similar to mediation, but it may be less formal.

**Concurrent Sentences:** Sentences for more than one crime that are to be served at the same time, rather than one after the other. See also cumulative sentences.

**Condemnation:** The legal process by which the government takes private land for public use, paying the owners a fair price.

**Consecutive Sentences:** Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more violations.

**Conservatorship:** Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself. (See also guardianship. Conservators have somewhat less responsibility than guardians.)

**Contempt of Court:** Willful disobedience of a judge's command or of an official court order.

**Continuance:** Postponement of a legal proceeding to a later date.

**Contract:** A legally enforceable agreement between two or more competent parties made either orally or in writing.

**Contingent Fee Agreement:** An agreement between an attorney and his or her client whereby the attorney agrees to represent the client for a percentage of the amount recovered. This fee agreement is frequently used in personal injury actions.

**Contributory Negligence:** Broadly, carelessness on the plaintiff's part. More precisely, conduct which falls below the standard of care established by law for the protection of one's self against unreasonable risk of harm.

**Conviction:** A judgment of guilt against a criminal defendant.

**Corpus Delicti:** Body of the crime. The objective proof that a crime has been committed. It sometimes refers to the body of the victim of a homicide or to the charred shell of a burned house, but the term has a broader meaning. For the state to introduce a confession or to convict the accused, it must prove a corpus delicti, that is, the occurrence of a specific injury or loss and a criminal act as the source of that particular injury or loss.

**Corroborating Evidence:** Supplementary evidence that tends to strengthen or confirm the initial evidence.

**Counsel:** Legal adviser; a term used to refer to lawyers in a case.

**Counter claim:** Claim brought by a defendant in a lawsuit against the plaintiff.

**Court Administrator/Clerk of court:** An officer appointed by the Court or elected to oversee the administrative, non-judicial activities of the court.

**Court:** Refers to a specific court, such as The Supreme Court of Pennsylvania, or may also refer to a judge.



**Court Costs:** The expenses of prosecuting or defending a lawsuit, other than the attorneys' fees. An amount of money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.

**Court Reporter:** The person who stenographically records and transcribes testimony during court proceedings or related proceedings such as depositions.

**Courts of limited jurisdiction:** Includes district, municipal and police courts.

**Court supreme:** "Court of last resort." Highest court in the state and final appellate court.

**Criminal Law:** Criminal law declares what conduct is criminal and prescribes punishment to be imposed for criminal conduct. The purpose of criminal law is to prevent harm to society.

**Cross-Claim:** Claim brought by a defendant in a lawsuit against a co-defendant in the lawsuit.

**Cross-Examination:** The questioning of a witness produced by the other side.

**Cumulative Sentences:** Sentences for two or more crimes to run consecutively, rather than concurrently.

**Custody:** Detaining of a person by lawful process or authority to assure his or her appearance to any hearing; the jailing or imprisonment of a person convicted of a crime.

## D

**Damages:** Money payment recovered in the courts for an injury or loss caused by an unlawful act or omission or negligence of another.

**Decedent:** A deceased person.

**Decision:** The judgment reached or given by a court of law.

**Declaratory Judgment:** Judicial adjudication of the rights of the parties in a lawsuit made to clarify the parties' legal positions.

**Decree:** An order of the court. A final decree is one that fully and finally disposes of the litigation. An interlocutory decree is a preliminary order that often disposes of only part of a lawsuit.

**Deductible:** The amount an insured person must pay before the insurance company pays the remainder of each covered loss, up to the policy limits.

**Defamation:** That which tends to injure a person's reputation. Libel is published defamation, whereas slander is spoken.

**Default:** A failure to respond to a lawsuit within the specified time.

**Default Judgment:** A judgment entered against a party who fails to appear in court or respond to the charges.

**Defendant:** In civil law, the party defending a lawsuit; the party against whom the plaintiff seeks to recover damages from.

**Demurrer:** Defendant's claim that even if the allegations in a complaint are true, they are not sufficient to impose any liability on the defendant.

**De Novo:** A new. A trial de novo is a new trial of a case.

**Deposition:** Testimony of a witness taken under oath, but not in a courtroom. May be used to discover evidence prior to trial or to preserve testimony for use in court at a later time.

**Deponent:** The person who testifies at a deposition.

**Descent and Distribution Statutes:** State laws that provide for the distribution of estate property of a person who dies without a will. Same as intestacy laws.

**Dicta:** Plural of "obiter dictum." A remark made by a judge in a legal opinion that is irrelevant to the decision and does not establish a precedent.

**Directed Verdict:** Now called Judgment as a matter of Law. An instruction by the judge to the jury to return a specific verdict.

**Direct Evidence:** Generally, eyewitness evidence. Compare with circumstantial evidence.

**Direct Examination:** The first questioning of witnesses by the party on whose behalf they are called.

**Disability:** In the legal sense, lack of legal capacity to perform some act. Used in a physical sense in connection with workers' compensation acts and is a composite of (a) actual incapacity to perform employment tasks and the wage loss resulting therefrom and (b) physical bodily impairment which may or may not be incapacitating.

**Disbarment:** Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law. It differs from censure (an official reprimand or condemnation) and from suspension (a temporary loss of the right to practice law).

**Disclaim:** To refuse a gift made in a will.

**Discovery:** The pretrial process by which one party discovers the evidence that will be relied upon in the trial by the opposing party.

**Disfigurement:** A technical term in workers' compensation cases for a serious and permanent scar to the head, neck, or face.

**Dismissal with Prejudice:** Final judgment against the plaintiff which prohibits bringing an action on the same cause of action in the future. In contrast, "dismissal without prejudice" allows the plaintiff to sue again for the same cause of action.

**Dismissal:** The termination of a lawsuit. A dismissal without prejudice allows a lawsuit to be brought before the court again at a later time. In contrast, a dismissal with prejudice prevents the lawsuit from being brought before a court in the future.

**Disposition:** Determination of a charge; termination of any legal action.

**Dissent:** To disagree. An appellate court opinion setting forth the minority view and outlining the disagreement of one or more judges with the decision of the majority.

**Diversion:** The process of removing some minor criminal, traffic, or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages.

**Docket:** A list of cases to be heard by a court or a log containing brief entries of court proceedings.

**Doctrine of avoidable consequences or mitigation of damages:** Imposes a duty on victims of a tort to take reasonable steps to minimize their damages after an injury has been inflicted.

**Domicile:** The place where a person has his or her permanent legal home. A person may have several residences, but only one domicile.

**Double Jeopardy:** Putting a person on trial more than once for the same crime. It is forbidden by the Fifth Amendment to the U.S. Constitution.

**Dram shop:** A drinking establishment where alcoholic beverages are served to be drunk on the premises.

**Dram Shop Act:** In Pennsylvania, this statute imposes liability on drinking establishments, like bars and restaurants, for harm resulting from the establishment's service of alcohol to visibly intoxicated persons.

**Due Process of Law:** The right of all persons to receive the guarantees and

safeguards of the law and the judicial process. It includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

**Duty:** In negligence cases, a "duty" is an obligation to conform to a particular standard of care. A failure to so conform places the actor at risk of being liable to another to whom a duty is owed for an injury sustained by the other of which the actor's conduct is a legal cause. See reasonable man doctrine.

## E

**Elements of a Crime:** Specific factors that define a crime which the prosecution must prove beyond a reasonable doubt in order to obtain a conviction. The elements that must be proven are (1) that a crime has actually occurred, (2) that the accused intended the crime to happen, and (3) a timely relationship between the first two factors.

**Eminent Domain:** The power of the government to take private property for public use through condemnation.

**Emotional Distress:** Mental anguish.

**Employee Verification Form:** In a workers' compensation case, it's a bi-annual report of earnings to be completed by the injured employee. The form is required to be returned to the insurance carrier within 30 days of receipt or benefits may be stopped.

**En Banc:** All the judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

**Enjoining:** An order by the court telling a person to stop performing a specific act.

**Entrapment:** A defense to criminal charges alleging that agents of the government induced a person to commit a crime he or she otherwise would not have committed.

**Equal Protection of the Law:** The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires that courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; that persons are liable to no other or greater burdens than such as are laid upon others, and that no different or greater punishment is enforced against them for a violation of the laws.

**Equitable Remedies:** Remedies that do not include monetary settlements. Examples include injunctions and restraining orders.

**Equity:** Generally, justice or fairness. Historically, equity refers to a separate body of law developed in England in reaction to the inability of the common-law courts, in their strict adherence to rigid writs and forms of action, to consider or provide a remedy for every injury. The king therefore established the court of chancery, to do justice between parties in cases where the common law would give inadequate redress. The principle of this system of law is that equity will find a way to achieve a lawful result when legal procedure is inadequate. Equity and law courts are now merged in most jurisdictions.

**Error:** In the legal sense, a mistaken interpretation of facts or application of the law that can prove grounds for an appeal.

**Escheat (es-chet):** The process by which a deceased person's property goes to the state if no heir can be found.

**Escrow:** Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (held in escrow) until all conditions of the agreement are met.

**Estate:** An estate consists of personal property (car, household items, and other tangible items), real property, and intangible property, such as stock certificates and bank accounts, owned in the individual name of a person at the time of the person's death. It does not include life insurance proceeds unless the estate was made the beneficiary) or other assets that pass outside the estate (like joint tenancy asset).

**Estate Tax:** Generally, a tax on the privilege of transferring property to others after a person's death. In addition to federal estate taxes, many states have their own estate taxes.

**Estoppel:** A person's own act, or acceptance of facts, which preclude his or her later making claims to the contrary.

**Et al:** And others.

**Evidence:** Proof of a probative matter presented at trial for the purpose of inducing belief in the minds of the jury or judge. Evidence comes in a variety of forms, including testimony, writings, tangible objects, and exhibits.

**Exception:** A formal objection of an action of the court, during the trial of a case, in refusing a request or overruling an objection; implying that the party excepting does not acquiesce in the decision of the court and will seek to obtain its reversal.

**Exemplary Damages or Punitive Damages:** Compensation greater than is necessary to pay a plaintiff for a loss. These damages are awarded because the loss was

aggravated by violence, oppression, malice, fraud or wanton and wicked conduct on the part of the defendant. Such damages are intended to punish the defendant for his evil behavior or make an example of him or her.

**Exempt Property:** In bankruptcy proceedings, this refers to certain property protected by law from the reach of creditors.

**Exceptions:** Declarations by either side in a civil or criminal case reserving the right to appeal a judge's ruling upon a motion. Also, in regulatory cases, objections by either side to points made by the other side or to rulings by the agency or one of its hearing officers.

**Exclusionary Rule:** The rule preventing illegally obtained evidence to be used in any trial.

**Execute:** To complete the legal requirements (such as signing before witnesses) that make a will valid. Also, to execute a judgment or decree means to put the final judgment of the court into effect.

**Executor:** A personal representative, named in a will, who administers an estate.

**Exhibit:** A document or other item introduced as evidence during a trial or hearing.

**Exonerate:** Removal of a charge, responsibility or duty.

**Expert:** A witness who may give an opinion in court based on the particular competence of that witness.

**Expert evidence:** Testimony given by those qualified to speak with authority regarding scientific, technical or professional matters.

**Ex Parte:** On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.

**Ex Parte Proceeding:** The legal procedure in which only one side is represented. It differs from adversary system or adversary proceeding.

**Ex Post Facto:** After the fact. The Constitution prohibits the enactment of ex post facto laws. These are laws that permit conviction and punishment for a lawful act performed before the law was changed and the act made illegal.

**Extenuating Circumstances:** Circumstances which render a crime less aggravated, heinous, or reprehensible than it would otherwise be.

**Expungement:** Official and formal erasure of a record or partial contents of a record.

**Extradition:** The process by which one state or country surrenders to another state, a person accused or convicted of a crime in the other state.

## F

**Fact-finding hearing:** A proceeding where facts relevant to deciding a controversy are determined.

**Fact Question:** Issues in a trial or hearing concerning facts and how they occurred, as opposed to questions of law. Fact questions are for the jury to decide, unless the issues are presented in a non-jury or bench trial, in which case the judge would decide fact questions. Questions of law are decided by a judge. Findings of fact are generally non-appealable, while rulings on questions of law are subject to appeal.

**Fair Preponderance:** Evidence sufficient to create in the minds of the triers of fact the belief that the party which bears the burden of proof has established its case.

**Family Allowance:** A small amount of money set aside from the estate of the deceased. Its purpose is to provide for the surviving family members during the administration of the estate.

**Family Practitioner:** A physician who has a general health care practice and no specialization.

**Felony:** Crimes of a graver or more serious nature than misdemeanors.

**Fiduciary:** A person having a legal relationship of trust and confidence to another and having a duty to act primarily for the others benefit, e.g., a guardian, trustee, or executor.

**File:** To place a paper in the official custody of the clerk of court/court administrator to enter into the files or records of a case.

**Final Receipt:** In a workers' compensation case, it's the form presented by the insurance carrier for the injured employee's signature so that benefits will stop upon return to work.

**Final Judgment:** The written ruling on a lawsuit by the judge who presided at trial. This completes the case unless it is appealed to a higher court. Also called a final decree or final decision.

**Finding:** Formal conclusion by a judge or regulatory agency on issues of fact. Also, a conclusion by a jury regarding a fact.

**Fine:** A sum of money imposed upon a convicted person as punishment for a criminal offense.

**First Appearance:** The initial appearance of an arrested person before a judge to determine whether or not there is probable cause for his or her arrest. Generally the person comes before a judge within hours of the arrest. Also called initial appearance.

**First Party Benefits:** In insurance law, first party benefits include medical benefits, income loss benefits, accidental death benefit, funeral benefit, and extraordinary medical benefits. In Pennsylvania, the only required coverage is \$5,000 in medical benefits.

**Fracture:** A break or crack in a bone.

**Fraud:** False and deceptive statement of fact intended to induce another person to rely upon and, in reliance thereof, give up a valuable thing he or she owns or a legal right he or she is entitled to.

**Full Tort Option:** In Pennsylvania, purchasers of motor vehicle insurance can choose "full tort," which gives the insured the unrestricted right to seek money damages for all injuries sustained in an accident caused by another driver, including economic loss, pain and suffering and other non-monetary damages. Compare with limited tort option.

## G

**Garnishment:** A legal proceeding in which a debtor's money, in the possession of another (called the garnishee), is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.

**General Jurisdiction:** Refers to courts that have no limit on the types of criminal and civil cases they may hear.

**Good Time:** A reduction in sentenced time in prison as a reward for good behavior. It usually is one third to one half off the maximum sentence.

**Grand Jury:** A body of persons sworn to inquire into crime and if appropriate, bring accusations (indictments) against the suspected criminals.

**Grantor or Settlor:** The person who sets up a trust.

**Gross Negligence:** Intentional failure to perform a manifest duty in reckless disregard of the consequences to another person's life or property. There is no clear distinction between gross negligence and willful negligence.

**Guardian:** A person appointed by will or by law to assume responsibility for



incompetent adults or minor children. If a parent dies, this will usually be the other parent. If both die, it probably will be a close relative.

**Guardianship:** Legal right given to a person to be responsible for the food, housing, health care, and other necessities of a person deemed incapable of providing these necessities for himself or herself. A guardian also may be given responsibility for the person's financial affairs, and thus perform additionally as a conservator. (See also conservatorship).

## H

**Habeas Corpus:** A writ commanding that a person be brought before a judge. Most commonly, a writ of habeas corpus is a legal document that forces law enforcement authorities to produce a prisoner they are holding and to legally justify his or her confinement.

**Harmless Error:** An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.

**Health Maintenance Organization (HMO):** A type of managed health care system that contracts with medical facilities, physicians, employers, and sometimes individuals to provide medical care to a group of people known as "members." Generally, members of HMOs don't have any significant "out-of-pocket" expenses because the medical care is most often paid for by an employer at a fixed price per patient.

**Hearing:** A proceeding usually without a jury.

**Hearsay:** Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in court.

**Hemorrhagic Stroke:** Occurs when an artery in the brain tears or bursts, causing blood to spill out.

**Hit and Run:** An accident caused by someone who does not stop to assist or provide the required and necessary information.

**HMO Negligence:** Generally, a type of medical malpractice that can be defined as the carelessness of an HMO, acting through its physicians, in making treatment decisions for a member that results in injury to that member.

**Homeowner's Insurance:** Policy that insures individuals against any, some, or all of the risks of loss to personal dwellings or the contents of personal dwellings or the personal liability pertaining to personal dwellings.

**Hostile Witness:** A witness whose testimony is not favorable to the party who calls him or her as a witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

**Hung Jury:** A jury whose members cannot agree upon a verdict.

**Hurt on the Job:** In order to establish a right to workers' compensation benefits, there must be an employment relationship during which an accident or an injury arises in the course of employment and is related thereto, and includes aggravation, reactivation, acceleration or death resulting from the injury.

**I**

**Immunity:** Grant by the court, which assures someone will not face prosecution in return for providing criminal evidence.

**Impaneling:** Selecting a jury from the list of potential jurors.

**Impeach:** Attacking the credibility of a witness.

**Impeachment of a Witness:** An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

**Incarcerate:** To confine in jail.

**Inadmissible:** That which, under the rules of evidence, cannot be admitted or received as evidence.

**In Camera:** In a judge's chambers; in private.

**In Camera Inspection:** Judge's private inspection of a document prior to his or her ruling on its admissibility or use at trial.

**In Camera Proceedings.** Trial or proceeding in a place not open to the public, usually in a judge's chambers.

**Indemnify:** To restore the victim of a loss, either in whole or in part, by payment of money or repair or replacement of the thing lost.

**Independent Executor:** A special kind of executor, permitted by the laws of certain states, who performs the duties of an executor without intervention by the court.

**Indeterminate Sentence:** A sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by a

parole board or other authorized agency after the prisoner has served the minimum term.

**Indictment:** A written accusation by a grand jury charging a person with a crime.

**Indigent:** Needy or impoverished. A defendant who can demonstrate his or her indigence to the court may be assigned a court-appointed attorney at public expense.

**Induction:** Writ or order by a court prohibiting a specific action from being carried out by a person or group.

**Information:** Accusatory document, filed by the prosecutor, detailing the charges against the defendant. An alternative to an indictment, it serves to bring a defendant to trial.

**Informed Consent:** Person's agreement to allow something to happen, such as a medical procedure, that is based on full disclosure of the facts necessary to make an intelligent decision.

**In Forma Pauperis:** In the manner of a pauper. Permission given to a person to sue without payment of court fees on claim of indigence or poverty.

**Infraction:** A violation of law not punishable by imprisonment. Minor traffic offenses generally are considered infractions.

**Inheritance Tax:** A state tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.

**Injure:** Hurt or harm; violate the legal rights of another person.

**Initial Appearance:** In criminal law, the hearing at which a judge determines whether there is sufficient evidence against a person charged with a crime to hold him or her for trial. The Constitution bans secret accusations, so initial appearances are public unless the defendant asks otherwise; the accused must be present, though he or she usually does not offer evidence. Also called first appearance.

**Injunction:** Writ or order by a court prohibiting a specific action from being carried out by a person or group. A preliminary injunction is granted provisionally, until a full hearing can be held to determine if it should be made permanent.

**In Propria Persona:** In court's it refers to persons who present their own case without lawyers. See Pro Se.

**Instructions:** Judge's explanation to the jury before it begins deliberations of the questions it must answer and the applicable law governing the case. Also called charge.

**Intangible Assets:** Nonphysical items such as stock certificates, bonds, bank accounts, and pension benefits that have value and must be taken into account in estate planning.

**Intentional Infliction of Emotional Distress:** - Intentionally causing severe emotional distress by extreme or outrageous conduct.

**Interlocutory:** Provisional; not final. An interlocutory order or an interlocutory appeal concerns only a part of the issues raised in a lawsuit.

**Interrogatories:** Written questions asked by one party in a lawsuit for which the opposing party must provide written answers.

**Intervention:** An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit. Differs from the process of becoming an amicus curiae.

**Inter Vivos Gift:** A gift made during the giver's life.

**Inter Vivos Trust:** Another name for a living trust.

**Intestacy Laws:** See descent and distribution statutes.

**Intestate:** Dying without a will.

**Intestate Succession:** The process by which the property of a person who has died without a will passes on to others according to the state's descent and distribution statutes. If someone dies without a will, and the court uses the state's interstate succession laws, an heir who receives some of the deceased's property is an intestate heir.

**Invitee:** A person is an invitee on land if he enters land by invitation; his entry is connected with business being conducted on the land by the possessor of land; and the possessor of land is benefited by the entry.

**Irrevocable Trust:** A trust that once set up, the grantor may not revoke.

**Irritable Bowel Syndrome:** A condition of abnormally increased spontaneous movement (motility) of the small and large intestine, generally stress can contribute to this condition.

**Ischemic Colitis:** An inflammation caused by interference with the blood flow to the large intestine. This lack of blood flow leads to death of tissue.

**Issue:** (1) The disputed point in a disagreement between parties in a lawsuit. (2) To send out officially, as in to issue an order.

# J

**Joint and Several Liability:** Refers to a plaintiff's ability to sue one or more defendants separately or all together at his or her option. Permits a group of defendants to be held both individually and collectively liable for all damages suffered by the plaintiff. The plaintiff can recover the entire amount of damages from one defendant, even if all of the defendants are liable.

**Joint Tenancy:** A form of legal co-ownership of property (also known as survivorship). At the death of one co-owner, the surviving co-owner becomes sole owner of the property. Tenancy by the entirety is a special form of joint tenancy between a husband and wife

**Judge:** Workers' compensation judges are appointed and are representatives of the Pennsylvania Department of Labor and Industry. They conduct hearings in an administrative proceeding for workers' compensation cases.

**Judgment:** Official decision of a court resolving the issues in a legal action and stating the rights and obligations of the parties. See also decree, order.

**Judgment Notwithstanding the Verdict (n.o.v.):** An order by the trial judge entering a judgment in a manner contradictory to the jury's verdict. This is granted only when the verdict is unreasonable and unsupportable.

**Judicial:** Pertaining to a judge.

**Judicial Notice:** The procedure by which a judge recognizes the existence of the truth of a certain fact having bearing on the case without the production of evidence because such fact is established by common notoriety. For example, if the accident happened on Thanksgiving, the judge can take judicial notice that the accident happened on a Thursday.

**Judicial Review:** The authority of a court to review the official actions of other branches of government. Also, the authority to declare unconstitutional the actions of other branches.

**Jurisdiction:** The legal right by which judges exercise their authority.

**Jurisprudence:** The study of law and the structure of the legal system.

**Jury:** Persons selected according to law and sworn to inquire into and declare a verdict on matters of fact. A petit jury is an ordinary or trial jury, composed of six to 12 persons, which hears either civil or criminal cases.

**Jury Commissioner:** The court officer responsible for choosing the panel of persons to

serve as potential jurors for a particular court term.

**Justiciable:** Issues and claims capable of being properly examined in court.

## L

**Lapsed Gift:** A gift made in a will to a person who has died prior to the will-makers death.

**Lapse in Coverage/Policy Lapse:** A point in time when a policy has been canceled or terminated for failure to pay the premium, or when the policy contract is void for other reasons.

**Larceny:** Obtaining property by fraud or deceit.

**Law:** The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.

**Law Clerks:** Persons trained in the law who assist judges in researching legal opinions.

**Lawsuit or Suit:** Generally, a court action brought by one person, the plaintiff, against another, the defendant, seeking compensation for some injury or enforcement of a right.

**Leading Case:** Case regarded as having determined the law on a particular point, thus becoming a guide for later decisions.

**Leading Question:** A question that suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions. Leading questions may be asked only of hostile witnesses and on cross-examination.

**Legal Aid:** Professional legal services available usually to persons or organizations unable to afford such services.

**Legal Cause:** Substantial factor in bringing about the harm. See also proximate cause.

**Legal Fiction:** Assumption of a fact that may or may not be true made by a judge to decide a legal question.

**Leniency:** Recommendation for a sentence less than the maximum allowed.

**Letters of Administration:** Legal document issued by a court that shows an administrator's legal right to take control of assets in the deceased person's name.

**Letters Testamentary:** Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

**Liability:** An obligation that one is bound in law to perform; usually involves the payment of money damages.

**Liable:** Legally responsible.

**Libel:** Published words or pictures that falsely and maliciously defame a person. Libel is published defamation; slander is spoken.

**Liberal construction:** Judicial interpretation of the law whereby the judge expands the literal meaning of the statute to meet cases that are clearly within the spirit or reason of the law. Compare with strict construction whereby the judge adheres to the literal meaning of the words.

**Licensee:** In civil law, a person who enters land with consent, but nothing more.

**Lien:** A legal claim against another person's property as security for a debt. A lien does not convey ownership of the property, but gives the lien holder a right to have his or her debt satisfied out of the proceeds of the property if the debt is not otherwise paid.

**Limine:** A motion requesting that the court not allow certain evidence that might prejudice the jury.

**Limited tort option:** In Pennsylvania, purchasers of motor vehicle insurance can choose "limited tort," which restricts their right to seek money damages for an accident caused by another driver. Under limited tort, the insured can only seek money damages for economic loss, including medical bills. The insured is prohibited from seeking damages for pain and suffering, except under certain limited circumstances. Compare with full tort option.

**Limited Jurisdiction:** Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, traffic violations generally are heard by limited jurisdiction courts.

**Litigant:** A party to a lawsuit. Litigation refers to a case, controversy, or lawsuit.

**Living Trust:** A trust set up and in effect during the lifetime of the grantor. Also called inter vivos trust.

**Loss of consortium:** Damages awarded to a family member (usually a spouse) for loss of companionship.

# M

**Magistrate:** Judicial officer exercising some of the functions of a judge. It also refers in a general way to a judge.

**Malfeasance:** Commission of a wrongful act; evil doing; wrongful conduct.

**Malicious Prosecution:** An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

**Mandamus:** A writ issued by a court ordering a public official to perform an act.

**Manslaughter:** The unlawful killing of another without intent to kill; either voluntary (upon a sudden impulse); or involuntary (during the commission of an unlawful act not ordinarily expected to result in great bodily harm). See also murder.

**Material Fact:** Generally, a fact essential to a case or a defense without which said case or defense could not be supported.

**Mediation:** A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.

**Medical Malpractice:** Broadly, a claim brought against a health-care professional based on professional negligence wherein the health-care professional violates the applicable standard of care and an injury results.

**Member:** In relation to health care, a member is a person who belongs to a health care plan, like an HMO

**Memorialized:** In writing.

**Mens Rea:** The "guilty mind" necessary to establish criminal responsibility.

**Mental Anguish:** Mental suffering. In some cases, damages may be awarded for mental anguish even though no physical injury is present.

**Miranda Warning:** Requirement that police tell a suspect in their custody of his or her constitutional rights before they question him or her. So named as a result of the *Miranda v. Arizona* ruling by the U.S. Supreme Court.

**Misdemeanor:** Crimes less serious than felonies. In Pennsylvania, the punishments associated with misdemeanors vary according to degree. A misdemeanor of the first degree may be sentenced to a term of imprisonment of not more than five years. A misdemeanor of the second degree may be sentenced to a term of imprisonment of not more than two years. A misdemeanor of the third degree may be sentenced to a term of



imprisonment of not more than one year.

**Misfeasance:** Improper performance of a lawful act.

**Mistrial:** An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again from the selection of the jury.

**Mitigating Circumstances:** Those which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

**Mitigation of Damages or Doctrine of Avoidable Consequences:** Imposes a duty on victims of a tort to take reasonable steps to minimize their damages after an injury has been inflicted.

**Mittimus:** The name of an order in writing, issuing from a court and directing the sheriff or other officer to convey a person to a prison, asylum, or reformatory, and directing the jailer or other appropriate official to receive and safely keep the person until his or her fate shall be determined by due course of law.

**Moot:** A moot case or a moot point is one not subject to a judicial determination because it involves an abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.

**Motion:** An application made to a judge for the purpose of obtaining an order directing some act to be done in favor of the party presenting the application.

**Moving Party:** The party presenting the motion. Compare with non-moving party.

**Murder:** The unlawful killing of a human being with deliberate intent to kill. Murder in the first degree is characterized by premeditation; murder in the second degree is characterized by a sudden and instantaneous intent to kill or to cause injury without caring whether the injury kills or not. (See also manslaughter.)

## N

**Negligence:** In its broadest sense, carelessness. More precisely, conduct which falls below the standard of care established by law for the protection of others against unreasonable risks of harm. In order to prevail in a negligence action, the plaintiff must prove, by a preponderance of the evidence, the following four elements: (1) that the defendant owed the plaintiff a duty of care; (2) that the defendant breached that duty; (3) that the defendant's breach of his or her duty of care caused the plaintiff's injury; (4) that the plaintiff suffered injury.

**Negligence per se:** Conduct, either by act or omission, that may be declared and treated as negligence without argument or proof of negligence, usually because the conduct violates a statute. A finding of negligence per se satisfies the plaintiff's burden of proof that the defendant's conduct was negligent. However, the burden remains on the plaintiff to establish that his injuries were proximately caused by the statutory violation.

**Next Friend:** One acting without formal appointment as guardian for the benefit of an infant, a person of unsound mind not judicially declared incompetent, or other person under some disability.

**Nisi Decree:** Interim decree or order that will eventually become final unless something changes or an event takes place.

**Nonfeasance:** Failure to perform some act which should have been performed.

**No Bill:** This phrase, endorsed by a grand jury on the written indictment submitted to it for its approval, means that the evidence was found insufficient to indict.

**No-Contest Clause:** Language in a will that provides that a person who makes a legal challenge to the will's validity will be disinherited.

**No-Fault Proceedings:** A civil case in which parties may resolve their dispute without a formal finding of error or fault.

**Non-Jury Trial or Bench Trial:** Trial before a judge and without a jury. In a bench trial, the judge decides questions of law and questions of fact.

**Non-Moving Party:** The party to a lawsuit that is not presenting a motion to the court. A non-moving party may or may not contest or oppose the motion. Compare with moving party.

**Nolle Prosequi:** Decision by a prosecutor not to go forward with charging a crime. It translates "I do not choose to prosecute." Also loosely called nolle pros.

**Nolo Contendere:** A plea of no contest. In many jurisdictions, it is an expression that the matter will not be contested, but without an admission of guilt. In other jurisdictions, it is an admission of the charges and is equivalent to a guilty plea.

**Notice:** Formal notification to the party that has been sued in a civil case of the fact that the lawsuit has been filed. Also, any form of notification of a legal proceeding.

**Nuisance:** An unreasonable or unlawful use of one's real estate that results in injures to another or interferes with another person's use of his real property.

**Nunc Pro Tunc:** A legal phrase applied to acts which are allowed after the time when they should be done, with a retroactive effect.

**Nuncupative Will:** An oral (unwritten) will.

## O

**Oath:** Written or oral pledge by a person to keep a promise or speak the truth.

**Obiter Dictum:** Remark by a judge in a legal opinion that is irrelevant to the decision and does not establish precedent. Often used in the plural, dicta.

**Objection:** In a trial, a reason stated on the [record](#) by an attorney that a matter or proceeding is illegal. Making objections in open court is important for purposes of making a record for [appeal](#).

**Occupational Disease:** An illness resulting from long-term employment in a particular type of work, such as those employees exposed to asbestos, who later develop cancer.

**On a Person's Own Recognizance:** Release of a person from custody without the payment of any bail or posting of bond, upon the promise to return to court.

**Opening Statement:** The initial statement made by attorneys for each side, outlining the facts each intends to establish during the trial.

**Opinion:** Written statement by a judge or court of the decision in a case which describes the law applied to the facts of the case and the reasons for the decision.

**Oral Argument:** An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

**Order:** Written direction or command made by a court or judge, and not included in a judgment. See also decree.

**Ordinance:** Commonly, a regulation passed by a municipal legislative body.

**Original jurisdiction:** The first court to which a legal dispute is referred.

**Out-of-Court Settlement:** An agreement reached between a plaintiff and a defendant to resolve a lawsuit privately and without a judge's authorization or approval.

**Overrule:** A judge's decision not to allow an objection. Also, a decision by a higher court finding that a lower court decision was in error.

# P

**Pardon:** A form of executive clemency preventing criminal prosecution or removing or extinguishing a criminal conviction.

**Parens Patriae:** The doctrine under which the court protects the interests of a juvenile.

**Parole:** The supervised conditional release of a prisoner before the expiration of his or her sentence. If the parolee observes the conditions, he or she need not serve the rest of his or her term.

**Party:** A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.

**Partial Disability:** In a workers' compensation case, this refers to any disability that is less than total. Workers' compensation benefits are generally measured by earning power in this situation.

**Patent:** A government grant giving an inventor the exclusive right to make or sell his or her invention for a term of years.

**Peremptory Challenge:** A challenge that may be used to reject a certain number of prospective jurors without giving a reason.

**Perjury:** Intentional false statement of material importance made under oath; lying under oath.

**Permanent Injunction:** A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a temporary restraining order or preliminary injunction.

**Person:** Generally, a human being. Legally, a "person" may statutorily include a corporation, partnership, trustee, legal representative, etc.

**Personal Auto Policy:** The most common auto insurance policy sold today. Often referred to as "PAP," this policy provides coverage for liability, medical payments, uninsured/under insured motorist coverage, and physical damage protection.

**Personal Property:** Tangible physical property (such as cars, clothing, furniture, and jewelry) and intangible personal property. This does not include real property such as land or rights in land.

**Personal Jurisdiction:** The power of a court over a person. Compare with subject matter jurisdiction.

**Personal Recognizance:** In criminal proceedings, the pretrial release of a defendant without bail upon his or her promise to return to court. See also own recognizance.

**Personal Representative:** One who stands in the place of another.

**Person in Need of Supervision:** Juvenile found to have committed a status offense rather than a crime that would provide a basis for a finding of delinquency. Typical status offenses are habitual truancy, violating a curfew, or running away from home. These are not crimes, but they might be enough to place a child under supervision. In different states, status offenders might be called children in need of supervision or minors in need of supervision.

**Petition:** A formal request that the court take some action; a complaint.

**Petitioner:** The person filing an action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. The opposing party is called the respondent.

**Petition to Terminate, Modify or Suspend Benefits:** In a workers' compensation case, this is the petition filed by the employer/insurance carrier in an attempt to modify, suspend or terminate an injured employee's compensation.

**Physical Damage:** Damage to your covered vehicle from perils including (but not limited to) collision or upset with another vehicle object, fire, vandalism and theft.

**Plaintiff:** In civil law, the person who brings an action or starts a lawsuit.

**Plea:** In a criminal proceeding, it is the defendant's declaration in open court that he or she is guilty or not guilty. The defendant's answer to the charges made in the indictment or information.

**Plead:** In civil law, a defendant's formal answer to a plaintiff's complaint.

**Plea Bargaining or Plea Negotiating:** The process through which an accused person and a prosecutor negotiate a mutually satisfactory disposition of a case. Usually it is a legal transaction in which a defendant pleads guilty in exchange for some form of leniency. It often involves a guilty plea to lesser charges or a guilty plea to some of the charges if other charges are dropped. Such bargains are not binding on the court.

**Pleading:** A document filed in a court that pertains to a case.

**Pleadings:** The written statements of fact and law filed by the parties to a lawsuit.

**Policy:** The written documents of a contract for insurance between the insurance company and the insured. Such documents include forms, endorsements, riders and attachments.

**Polling the Jury:** The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.

**Possessor of Land:** A person who occupies land and intends to control it. Most often, it is the owner of the property.

**Pour-Over Will:** A will that leaves some or all estate assets to a trust established before the will-maker's death.

**Power of Attorney:** Written document authorizing one person to take certain legal actions on behalf of the person giving the power of attorney..

**Precedent:** Decision by a court that provides an example or authority for later cases involving a similar question of law. See binding authority.

**Preliminary Hearing:** Another term for arraignment.

**Pre-Injunction:** Court order requiring action or forbidding action until a decision can be made whether to issue a permanent injunction. It differs from a temporary restraining order.

**Preponderance of the Evidence:** The amount of evidence needed for a plaintiff to win in a civil action. A preponderance of the evidence is the greater weight of the evidence or the more convincing evidence in comparison to the evidence offered in opposition. A plaintiff can win by a preponderance of the evidence even if plaintiff's evidence merely tips the scales in plaintiff's favor.

**Presiding judge:** Chief or administrative judge of a court.

**Presumptively Capable of Negligence:** Pennsylvania law places minors in three categories based on age. Minors under 7 are conclusively presumed incapable of negligence. Simply put, under the law, they cannot commit torts. Minors between 7 and 14 are presumed incapable of negligence, but the presumption is rebuttable or disputable, and the presumption grows weaker as the child nears his or her 14th birthday. Minors over 14 are presumptively capable of negligence. Simply put, under the law they are presumed as being able to commit torts. The burden is on the minor to prove incapacity.

**Pre-Sentence Report:** A report to the sentencing judge containing background information about the crime and the defendant to assist the judge in making his or her sentencing decision.

**Presentment:** Declaration or document issued by a grand jury that either makes a neutral report or notes misdeeds by officials charged with specified public duties. It ordinarily does not include a formal charge of crime. A presentment differs from an

indictment.

**Pretermitted Child:** A child borne after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of estate property to go to such children.

**Pre-Trial Conference:** A meeting between the judge and the lawyers involved in a lawsuit to narrow the issues in the suit, agree on what will be presented at the trial, and make a final effort to settle the case without a trial.

**Prevailing Party:** Generally, the winning party in a lawsuit.

**Prima Facie:** Literally means "at first sight" or "on the face of it." "Prima facie evidence" is evidence that is good and sufficient on its face. A plaintiff makes out a "prima facie case" when he or she presents "prima facie evidence," which means that the plaintiff is permitted to prevail on that evidence alone, unless the defendant can put forth sufficient evidence to overcome it.

**Prima Facie Case:** A case that is sufficient and has the minimum amount of evidence necessary to allow it to continue in the judicial process.

**Primary Care Physician (PCP):** A physician that is employed by or contracts with a managed health care system like an HMO that coordinates all of the member's medical care. A PCP is usually a family practitioner . PCP's are also known as "gatekeepers" because they control a member's access to medical care within a health plan.

**Privileged Communication:** Statement protected from forced disclosure in court because the statement was made within a "protected" relationship such as attorney/client. See attorney-client privilege.

**Probable Cause:** A reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

**Probate:** The court-supervised process by which a will is determined to be the will-maker's final statement regarding how the will-maker wants his or her property distributed. It also confirms the appointment of the personal representative of the estate. Probate also means the process by which assets are gathered; applied to pay debts, taxes, and expenses of administration; and distributed to those designated as beneficiaries in the will.

**Probate Court:** The court with authority to supervise estate administration.

**Probate Estate:** Estate property that may be disposed of by a will.

**Probation:** An alternative to imprisonment allowing a person found guilty of an offense to stay in the community, usually under conditions and under the supervision of a

probation officer. A violation of probation can lead to its revocation and to imprisonment.

**Procedural Law:** Generally, the body of law establishing the method or procedure of enforcing rights or obtaining redress for invasion of rights. Compare with substantive law which establishes rights.

**Proceeding:** Any hearing or court appearance related to the adjudication of a case.

**Process Serving:** The method by which a defendant in a lawsuit is notified that a plaintiff has filed a suit against him.

**Products Liability:** Area of the law involving the liability of manufacturers and sellers of dangerous or defective goods or products.

**Promulgate:** To officially announce.

**Property Damage Liability Coverage:** Automobile insurance coverage required under Pennsylvania law that provides money to pay claims if your car damages the property of another person.

**Pro Bono:** (Latin: "for the good") Used to describe the provision of services free of charge.

**Pro Bono Publico:** For the public good. Lawyers representing clients without a fee are said to be working pro bono publico.

**Pro Se:** A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers.

**Prosecutor:** A trial lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

**Proximate Cause:** The proximate cause of an injury is the primary or moving cause that produces the injury and without which the accident could not have happened, if the injury is one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act.

**Public Defender:** Government lawyer who provides free legal defense services to a poor person accused of a crime.

**Punitive Damages or Exemplary Damages:** Compensation greater than is necessary to pay a plaintiff for a loss. These damages are awarded because the loss was aggravated by violence, oppression, malice, fraud or wanton and wicked conduct on the part of the defendant. Such damages are intended to punish the defendant for his evil behavior or make an example of him or her.



**Purchaser:** In products liability law, a person who buys a product.

## Q

**Quash:** To vacate or void a summons, subpoena, etc.

**Question of Fact:** See fact question.

**Question of Law:** An issue involving the application or interpretation of the law which is within the province of the judge. Compare with question of fact.

## R

**Reasonable Care -** The standard of care in negligence cases; the duty to act reasonably so as to avoid harming others.

**Rebuttal:** The introduction of contradicting or opposing evidence showing that what witnesses said occurred is not true, the stage of a trial at which such evidence may be introduced.

**Record:** 1. To preserve in writing, print or by film, tape, etc. 2. History of a case. 3. The word-for-word written or tape recorded account of all proceedings of a trial.

**Redirect examination:** Follows cross examination and is carried out by the party who, first examined the witness.

**Remand -** The decision of an appellate court to send a case back to the trial court with instructions on how to correctly decide the case; often used with the term “reversed.” Reversed means that the appellate court overturned the trial court’s decision.

**Remedies -** Relief that the plaintiff receives from the defendant in a lawsuit. Often this will include monetary damages or equitable relief (i.e. injunctions).

**Reply:** Pleading by the plaintiff in response to the defendant's written answer.

**Respondent -** The party that won at trial.

**Restitution:** Act of giving the equivalent for any loss, damage of injury.

**Rests the case:** When a party concludes his presentation or evidence.

**Reversal:** Setting aside, annulling, vacating or changing to the contrary the decision of a lower court or other body.

# S

**Search Warrant:** A written order issued by a judge that directs a law enforcement officer to search a specific area for a particular piece of evidence.

**Secured Debt:** In bankruptcy proceedings, a debt is secured if the debtor gave the creditor a right to repossess the property or goods used as collateral.

**Self-Defense:** Claim that an act otherwise criminal was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

**Self-Incrimination, Privilege Against:** The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment to the U.S. Constitution. Asserting the right is often referred to as taking the Fifth.

**Self-Proving Will:** A will whose validity does not have to be testified to in court by the witnesses to it, since the witnesses executed an affidavit reflecting proper execution of the will prior to the maker's death.

**Sentence:** The punishment ordered by a court for a defendant convicted of a crime. A concurrent sentence means that two or more sentences would run at the same time. A consecutive sentence means that two or more sentences would run one after another.

**Sentence Report:** A document containing background material on a convicted person. It is prepared to guide the judge in the imposition of a sentence. Sometimes called a presentence report.

**Sequester:** To separate. Sometimes juries are separated from outside influences during their deliberations. For example, this may occur during a highly publicized trial.

**Sequestration of Witnesses:** Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also called separation of witnesses. This prevents a witness from being influenced by the testimony of a prior witness.

**Service:** The delivery of a legal document, such as a complaint, summons, or subpoena, notifying a person of a lawsuit or other legal action taken against him or her. Service, which constitutes formal legal notice, must be made by an officially authorized person in accordance with the formal requirements of the applicable laws.

**Set aside:** Annul or void as in "setting aside" a judgment.

**Settlement:** An agreement between the parties disposing of a lawsuit.

**Settlement conference:** A meeting between parties of a lawsuit, their counsel and a judge to attempt a resolution of the dispute without trial.

**Settlor:** The person who sets up a trust. Also called the grantor.

**Several Liability:** Liability separate and distinct from the liability of another which is sufficient to support a lawsuit without reference to anyone else's liability.

**Severance of Actions:** Judicial proceeding separating the claims of multiple parties and permitting separate actions on each one or some combination of them.

**Service of Process:** Providing a formal notice to the defendant that orders him to appear in court to answer plaintiff's allegations.

**Show Cause Order:** Judicial direction to appear in court and present reasons why the court should not take a proposed action.

**Sidebar:** A conference between the judge and lawyers, usually in the courtroom, out of earshot of the jury and spectators.

**Slander:** False and defamatory spoken words tending to harm another's reputation, business, or means of livelihood. Slander is spoken defamation; libel is published.

**Small Claims Court:** A court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

**Social Host Liability:** The liability of a person (the "social host") who furnishes free alcoholic beverages to another (the "guest"), when the guest subsequently sustains injuries or causes injury to a third person because of his intoxication.

**Sovereign Immunity:** The doctrine that the government, state or federal, is immune to lawsuit unless it gives its consent.

**Special Jurisdiction:** Power of a court to deal with only a limited type of case.

**Specific Loss:** In a workers' compensation case, this is the compensation payable for loss (amputation) or permanent loss of use of members of the body, complete loss of hearing in one or both ears, loss of vision in one or both eyes, and disfigurement.

**Specific Performance:** A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

**Spendthrift Trust:** A trust set up for the benefit of someone who the grantor believes would be incapable of managing his or her own financial affairs.

**Spoilation:** Generally, the destruction of evidence.

**Stack or Stacking:** In Pennsylvania automobile insurance law, purchasers of insurance have the option to "stack" uninsured and underinsured motorist coverage. If you choose "stacking," this means that you can add the coverage together for each vehicle you have insured, at least under the policy. (An issue presently exists as to whether you can "stack" coverages under separate policies of insurance.) For example, if you have two vehicles, with \$100,000/\$300,000 (meaning \$100,000 available per person, and \$300,000 available per accident) in uninsured or underinsured motorist coverage, you can "stack" the coverages and have available \$200,000/\$600,000 in coverage.

**Standard of Care:** In the law of negligence, the degree of care which a reasonable, prudent or careful person should exercise under the same or similar circumstances. If the standard falls below that established by law for the protection of others against unreasonable risk of harm, the person may be liable for damages resulting from such conduct.

**Standard of Proof or Burden of Proof:** Degree of proof required in a specific kind of case to prevail. In the majority of civil cases, it is proof by a preponderance of the evidence.

**Standing:** The legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.

**Stare Decisis:** Policy of the courts to not overturn precedents; adherence to precedents.

**Status Offenders:** Youths charged with the status of being beyond the control of their legal guardian or are habitually disobedient, truant from school, or having committed other acts that would not be a crime if committed by an adult. They are not delinquents (in that they have committed no crime), but rather are persons in need of supervision, minors in need of supervision, or children in need of supervision, depending on the state in which they live. Status offenders are placed under the supervision of the juvenile court.

**Statute:** Generally, a law created by a legislature.

**Statute of Limitations:** The time prescribed by statute in which a plaintiff can bring a lawsuit.

**Statutory Construction:** Process by which a court seeks to interpret the meaning and scope of legislation.

**Statutory Law:** Law enacted by the legislative branch of government, as distinguished from case law or common law.

**Stay:** Court-ordered suspension of a judicial proceeding.

**Stipulation:** An agreement by attorneys on both sides of a civil or criminal case about some aspect of the case; e.g., to extend the time to answer, to adjourn the trial date, or to admit certain facts at the trial.

**Strict Construction:** Judicial interpretation of the law whereby the judge adheres to the literal meaning of the words. Compare with liberal construction which expands the literal meaning of the statute to meet cases that are clearly within the spirit or reason of the law.

**Strict Liability:** Doctrine that holds defendants liable for harm caused by their actions regardless of their intentions or lack of negligence. Often applied to manufacturers or sellers of defective products in products liability cases.

**Strike:** Highlighting in the record of a case, evidence that has been improperly offered and will not be relied upon.

**Sua Sponte:** A Latin phrase which means on one's own behalf. Voluntary, without prompting or suggestion.

**Subject Matter Jurisdiction:** The court's power to deal with the general subject matter involved in a case. For example, a bankruptcy court judge has no subject matter jurisdiction to hear a divorce case.

**Subornation of Perjury:** Procuring someone to make a false statement under oath.

**Subpoena:** Command to appear at a certain place and time to give testimony on a matter.

**Subpoena Duces Tecum:** Command to produce some document or paper.

**Subrogation:** Substitution of one person for another, giving the substitute the same legal rights as the original party. For example, an insurance company may have a right of subrogation to sue anyone whom the person it compensated had a right to sue.

**Substantive law.** The body of law that creates, defines and regulates right. Compare with procedural law which prescribes the manner to enforce rights or obtaining redress for invasion of rights.

**Sue:** The act of bringing a lawsuit.

**Suit or Lawsuit:** Generally, a court action brought by one person, the plaintiff, against another, the defendant, seeking compensation for some injury or enforcement of a right.

**Summary Judgment:** A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law.

**Summons:** Formal document beginning a civil action or special proceeding which is a means to gain jurisdiction over a party. Also, a document directed to a sheriff or other authorized person ordering him to serve the person named on the summons who must appear at a certain place and time to respond to the action.

**Supplier of Goods:** In products liability law, all parties in the chain of supply of a product for profit, including manufacturers, sellers, and dealers.

**Supplemental Agreement:** In a workers' compensation case, this is the form signed by the injured employee when there has been a change in disability status.

**Support Trust:** A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.

**Suppress:** To forbid the use of evidence at a trial because it is improper or was improperly obtained. See also exclusionary rule.

**Surety Bond:** A bond purchased at the expense of the estate to insure the executor's proper performance. Often called a fidelity bond.

**Survival Action:** A survival action is brought by the administrator of a deceased person's estate in order to recover loss to the estate resulting from a tort. A survival action continues in the decedent's personal representative a right of action which accrued to the decedent at common law because of a tort. A survival action, unlike a wrongful death action, is not a new cause of action. Where death is caused by negligence, both a survival action and a wrongful death action may be brought.

**Survival Statutes:** Statutory law that provides for a legal action to continue after the death of a person involved in the action.

**Survivorship:** Another name for joint tenancy.

**Sustain:** A court ruling upholding an objection or a motion.

## T

**Tangible Personal Property Memorandum (TPPM):** A legal document that is referred to in a will and used to guide the distribution of tangible personal property.

**Temporary Relief:** Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

**Temporary Restraining Order:** A judge's order forbidding certain actions until a full hearing can be held. Usually of short duration. Often referred to as a TRO.

**Technical Errors:** Errors committed during a trial that have not prejudiced the losing party's rights and therefore are not grounds for reversal on appeal.

**Testamentary Capacity:** The legal ability to make a will.

**Testamentary Trust:** A trust set up by a will.

**Testator:** Person who makes a will (female: testatrix).

**Testimony:** Evidence delivered by a witness at trial either orally at trial or in the written form of an affidavit or deposition.

**Third Party:** A person, business, or government agency not actively involved in a legal proceeding, agreement, or transaction.

**Third Party Benefit:** In insurance law, third party benefits refer to the amount of available coverage that the at-fault party has in bodily injury and property damage.

**Third Party Lawsuit:** In workers' compensation law, when an injury is caused by the act or failure to act of a party other than the employer, that party is the "third party," and the injured worker may file a lawsuit against that party. An example of a third party lawsuit in workplace injury would be a products liability suit against the manufacturer of a defective tool.

**Third Party litigation:** When a lawsuit is brought against a defendant and that defendant wants to add another party to the suit, the original defendant may file a "third party complaint" which results in a third party litigation or lawsuit.

**Third-Party Claim:** An action by the defendant that brings a third party into a lawsuit.

**Tipstaff:** Court-appointed officer whose duty it is to serve the judge in a variety of ways while court is in session. See bailiff.

**Title:** Legal ownership of property, usually real property or automobiles.

**Tort:** In civil law, generally, a wrong or injury committed against a person or property. A tort does not include breach of contract.

**Tortfeasor:** One who commits a tort.

**Tortious:** Having the quality of a tort; the wrongdoer.

**Total Disability:** In a workers' compensation case, this is the compensation paid when an injured employee is totally impaired due to a work-related injury. Benefits at the total disability rate are generally two-thirds of wages up to a maximum compensation rate

**Transcript:** Official written copy of proceedings in a case, including hearings, depositions, and trial. Usually made by a court reporter.

**Traumatic Brain Injury:** An insult to the brain caused by an external physical force that may produce a diminished or altered state of consciousness that results in an impairment of cognitive abilities or physical functioning and/or a disturbance of behavioral or emotional functioning.

**Trespasser:** In civil law, a person who enters land without invitation, permission or privilege.

**Trial:** The judicial examination and determination of issues between the parties to an action.

**Trial Calendar:** List maintained by the clerk of court or the trial judge of cases awaiting trial, which includes trial dates, names of attorneys representing parties, and other such information.

**Trial Court:** The first court to hear the case, as opposed to an appellate court which hears appeals of decisions made in trial courts.

**Trust:** A legal device used to manage real or personal property, established by one person (the grantor or settlor) for the benefit of another (the beneficiary). A third person (the trustee) or the grantor manages the trust.

**Trust Agreement or Declaration:** The legal document that sets up a living trust. Testamentary trusts are set up in a will.

**Trustee:** The person or institution that manages the property put in trust.

## U

**Underinsured Motorist Coverage:** In Pennsylvania, optional insurance that provides protection to purchaser of said coverage and relatives living in his household who suffer injury caused by the negligence of another driver who does not have enough insurance to pay for all losses and damages. Underinsured motorist coverage can be stacked.

**Undue Influence:** Abuse of position of trust or authority in order to induce a person to do or refrain from doing something to the advantage of the person exerting the influence.



**Uninsured Motorist Coverage:** In Pennsylvania, optional insurance that provides protection to purchaser of said coverage and relatives living in his household who suffer injury caused by the negligence of another driver who does not have insurance to pay for losses and damages. Uninsured motorist coverage can be stacked.

**Unlawful Detainer:** A detention of real estate without the consent of the owner or other person entitled to its possession.

**Unsecured:** In bankruptcy proceedings, for the purposes of filing a claim, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.

**User:** In products liability law, a person who uses goods.

**Usury:** Charging a higher interest rate or higher fees than the law allows.

## V

**Vacate:** To set aside or void an order or decision of a court.

**Venire:** A writ summoning persons to court to act as jurors, Also refers to the people summoned for jury duty.

**Venue:** Broadly, the geographical area where a court has authority to hear a case because it has personal jurisdiction and subject matter jurisdiction. The venue is usually the same area where the incident leading to the trial occurred. A change of venue may occur if negative publicity or other factor would make it difficult to find unbiased jurors.

**Verdict:** The jury's decision in a case. A general verdict is the jury's finding either for the plaintiff or the defendant. A special verdict is a statement by the jury of facts it has found in response to questions submitted by the judge.

**Vicarious Liability:** The liability of one person for the torts of another.

**Void:** Having no binding effect or legal force; null.

**Voir Dire:** Process of questioning potential jurors so that each side may decide whether to accept or oppose individuals for jury service.

## W

**Waiver:** Knowing and voluntary relinquishment of a right. Compare with release.

**Waiver of Immunity:** A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

**Warrant:** Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An affidavit seeking a warrant must establish probable cause by detailing the facts upon which the request is based.

**Will:** A legal declaration that disposes of a person's property when that person dies.

**Willful act:** An intentional act carried out without justifiable cause.

**Willful Negligence:** Intentional performance of an unreasonable act in disregard of a known risk, making it highly probable that harm will be caused. Willful negligence usually involves a conscious indifference to the consequences. There is no clear distinction between willful negligence and gross negligence.

**Without Prejudice:** A claim or cause dismissed without prejudice may be the subject of a new lawsuit.

**With Prejudice:** Applied to orders of judgment dismissing a case, meaning that the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

**Witness:** A person who testifies to what he or she has seen, heard, or otherwise experienced. Also, a person who observes the signing of a will and is competent to testify that it is the will-maker's intended last will and testament.

**Workers' Compensation:** Insurance required of almost all employers to help cover their employees' economic loss due to a job-related injury or illness.

**Writ:** Broadly, a court order requiring the performance of some act or giving authority to have the act done.

**Writ of Certiorari:** An order issued by the Supreme Court directing the lower court to transmit records for a case for which it will hear on appeal.

**Wrongful Death Action:** An action brought to recover damages for the death of a person caused by a wrongful act or neglect or unlawful violence or negligence of another; provided that no recovery for the same damages claimed in the wrongful death action was obtained by the deceased during his lifetime. In Pennsylvania, the action may be brought by the decedent's spouse, children, or parents. If the decedent has no spouse, children or parents, the action may be brought by a personal representative in order to recover damages for hospital, nursing, medical, funeral and estate

administration costs.

**Wrongful Death Statute:** Statutory law that provides the means for the representative of a decedent to bring suit alleging that the decedent's death was caused by someone's willful or negligent act and to seek compensation for monetary loss suffered because of the decedent's death.