Insurance Buyers' News

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“Forever Chemicals” and Reverse Discrimination Claims Top $40 Billion in 2024

Class action lawsuits continue to pose significant financial risks for companies, especially in a pro-plaintiff litigation environment.

“As outlined in the *2024 Duane Morris Class Action Review*, the legal landscape is increasingly favoring plaintiffs, particularly in areas such as data privacy, data breaches, and diversity and ESG initiatives. Below are key insights from the review:

1. Settlements Surpass $40 Billion for the Third Year in a Row

Class action settlements exceeded $40 billion for the third consecutive year, totaling $42 billion in 2024. This ranks as the third-highest amount in two decades, following $51.4 billion in 2023 and $66 billion in 2022. These figures underscore the significant redistribution of wealth through class actions and the continued pursuit of high-value claims by plaintiffs' attorneys.

2. PFAS and Reverse Discrimination Claims Gain Traction

PFAS Litigation Surges

PFAS (per- and polyfluoroalkyl substances), known as “forever chemicals” due to their persistence

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This Just In …

The recent Los Angeles fires have had a significant impact on businesses. According to the Los Angeles Economic Development Corporation (LAEDC), approximately 2,000 businesses were affected by the fires, resulting in an estimated $2.9 billion in economic losses. This includes $1.2 billion in lost wages due to over 15,000 jobs impacted. The fires have caused extensive damage to commercial properties, disrupted supply chains, and led to increased operational costs for businesses in the affected areas.

According to the Wrigley Institute for Environment & Sustainability at USC, “Although the disaster has boosted short-term opportunities for some businesses—such as hotels and clean-up crews—many businesses close to wildfire zones have been destroyed, closed, or are currently seeing a decline in customers

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in the environment, drove some of 2024's largest settlements. The highest PFAS-related class action settlement was more than double the next largest, with attorneys securing nearly $1 billion in fees. This wave of litigation is expected to continue as more companies face claims over PFAS in products and packaging, leading to supplier disputes.

Reverse Discrimination Claims on the Rise

The U.S. Supreme Court's 2023 decision in Students for Fair Admission triggered a surge in lawsuits targeting diversity, equity, and inclusion (DEI) programs. Many cases involved claims that companies prioritized diversity over merit, allegedly using protected characteristics in hiring and employment decisions. A jury in California found a tech company liable for intentional discrimination against Caucasian and non-Indian employees. The Supreme Court will soon resolve a federal circuit split on whether majority-group plaintiffs alleging "reverse discrimination" must meet a higher burden of proof, potentially expanding these claims.

3. Data Breach and Privacy Class Actions Continue to Expand

Data breach litigation hit record levels in 2024, with filings doubling from 2022. Despite this increase, courts issued only five class certification decisions, suggesting many cases are settling before reaching this stage. Defendants appear willing to negotiate settlements, ensuring the continuation of these claims.

Illinois amended its Biometric Information Privacy Act in 2024, eliminating per-scan damages and reducing the financial threat of litigation. However, privacy class actions remain strong, shifting focus to internet activity tracking. Lawsuits claimed that common website tracking tools improperly shared user data. Some cases were dismissed early, but others resulted in sizable settlements, encouraging further litigation.

4. California Remains Ground Zero for Class Actions

California's Private Attorneys General Act (PAGA) inspired more representative lawsuits than any other statute in 2024. PAGA allows employees to sue employers for labor violations on behalf of the state, leading to civil penalties. Plaintiffs filed over 9,464 PAGA notices in 2024—22% more than in 2023 and an astonishing 85,936% increase from 11 filings in 2006.

Despite 2024's PAGA reform legislation, interest in these cases remains high. PAGA continues to serve as a workaround to workplace arbitration agreements. While the U.S. Supreme Court's *Viking River v. Moriana* (2022) ruling held that individual PAGA claims can be arbitrated, some California courts have ignored this precedent, allowing plaintiffs to proceed with representative claims in court.

At over 650 pages, the *Duane Morris Class Action Review – 2025* is available in print and as a fully searchable e-book.

This Just In

and revenue as a result of the California wildfires. This leaves the economic future of industries, many of which have been impacted by the Covid-19 pandemic and labor organizing, uncertain."

As for the housing industry, Wrigley Institute faculty affiliate and economist Matthew Kahn says that it could take between five to seven years to rebuild homes, despite a recently signed order suspending some environmental regulations to speed up the rebuilding of homes and businesses.

Businesses in sectors such as retail, hospitality, and construction have been particularly hard hit, with many facing prolonged closures and reduced customer traffic. The recovery process is expected to be lengthy, with rebuilding efforts potentially taking several years.

How AI Will Shape the Future of Insurance: Insights for Business Owners

The insurance industry is on the brink of a significant transformation driven by artificial intelligence (AI).

According to a recent McKinsey report, AI has the potential to revolutionize every aspect of the industry, from underwriting and claims processing to customer engagement and risk management. Here are some key insights from the report that business owners should consider:

Increased prevalence of physical robotics

"Additive manufacturing, also known as 3-D printing, will radically reshape manufacturing and the commercial insurance products of the future." The report notes that by 2025, "3-D-printed buildings will be common, and carriers will need to assess how this development changes risk assessments."

Also, by 2030, commercially viable autonomous drones, farming equipment, and surgical robots will become prevalent. A larger proportion of standard vehicles will feature self-driving capabilities. Insurers will need to adapt to the increasing presence of robotics, which will shift risk pools, change customer expectations, and create opportunities for new products and channels.

Predictive Analytics and Risk Management

AI-powered predictive analytics can help insurers better assess and manage risks. By analyzing vast amounts of data, AI algorithms can identify patterns and predict potential risks more accurately than traditional methods. This can lead to more precise pricing and underwriting, reducing the likelihood of unexpected losses.

Enhanced Customer Experience

AI can significantly improve the customer experience by providing personalized services and faster response times. For example, AI chatbots can handle routine inquiries and claims processing, freeing up human agents to focus on more complex tasks. Additionally, AI can help insurers tailor their offerings to individual customer needs, enhancing satisfaction and loyalty.

For example, according to the report, "Smart contracts enabled by blockchain instantaneously authorize payments from a customer's financial account." In addition, streamlined contract processing and payment verification lower customer

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acquisition costs for insurers. The use of drones, IoT (internet of things), and other data sources accelerates the purchase of commercial insurance by enabling AI-based models to generate bindable quotes proactively.

Streamlined Claims Processing

AI can streamline the claims process by automating routine tasks and reducing the time it takes to process claims. For instance, AI algorithms can quickly analyze damage reports, medical records, and other relevant information to determine claim validity and payout amounts. This can lead to faster settlements and improved customer satisfaction.

Fraud Detection and Prevention

AI can enhance fraud detection and prevention by identifying suspicious patterns and anomalies in claims data. By analyzing large datasets, AI algorithms can detect fraudulent activities more efficiently than traditional methods, reducing losses and improving overall efficiency.

Operational Efficiency and Cost Reduction

AI can help insurers achieve operational efficiency and cost reduction by automating repetitive tasks and optimizing workflows. This can lead to lower operational costs and improved profitability. Additionally, AI can assist in managing and analyzing large volumes of data, providing valuable insights for decision-making.

Future Opportunities and Challenges

As AI continues to evolve, insurers will need to adapt to new technologies and changing customer expectations. This may involve investing in new skills and capabilities, as well as rethinking traditional business models. Insurers that embrace AI and leverage its potential will be better positioned to thrive in the future.

In conclusion, AI is set to transform the insurance industry in profound ways, offering numerous opportunities for business owners to enhance their operations and better serve their customers. ■

President Trump's Recent Executive Orders: Impact on Business Risk and Opportunity

President Donald Trump has issued three new Executive Orders (EOs) with significant implications for businesses across the United States.

These orders focus on dismantling Diversity, Equity, and Inclusion (DEI) policies within the federal government and reducing environmental litigation. While these changes may offer benefits for businesses, they also present potential downsides.

DEI Policies Targeted

The first EO, titled "Ending Radical and Wasteful Government DEI Programs and Preferencing," aims to dismantle DEI policies across federal institutions. The Director of the Office of Management and Budget (OMB) is tasked with terminating DEIA programs, revising employment practices, and eliminating DEIA offices and positions.

"Critical and influential institutions of American society have adopted and actively use dangerous, demeaning, and immoral race and sex-based preferences under the guise of so-called 'diversity, equity, and inclusion' (DEI), or 'diversity, equity, inclusion, and accessibility' (DEIA)," President Trump stated.

The second EO, titled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," targets DEI programs and mandates within the federal government. This order also revokes previous executive or-

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ders, including Executive Order 11246, which established equal opportunity employment at federal contractors.

Environmental Litigation Measures

The third EO focuses on reducing environmental litigation and includes measures to expedite environmental reviews and permitting processes. The order signals an intent to repeal subsidies for electric vehicles and state vehicle emissions standards waivers. According to Trump, "We are committed to ensuring that our environmental policies are efficient and effective, promoting economic growth while protecting our natural resources."

Business Implications

The EOs offer several potential benefits for businesses:

1. **Reduced Regulatory Burden:** By reducing DEI mandates and environmental litigation, businesses may face fewer regulatory hurdles, leading to streamlined operations and increased profitability.
2. **Focus on Merit-Based Hiring:** Emphasis on merit-based hiring can lead to a more competitive workforce, improving productivity and innovation.
3. **Cost Savings:** Lower compliance costs associated with DEI programs and environmental regulations can result in direct cost savings for businesses.

However, the EOs also present potential downsides:

1. **Workplace Diversity:** The rollback of DEI initiatives may lead to less diverse workplaces, stifling creativity and limiting perspectives within a company, according to Virginia Kase Solomon, president and CEO of Common Cause. "The people who oppose us, the ones who attack DEI, … they want to diminish and exterminate and incapacitate progress towards a multiracial democracy to maintain white supremacy and concentration of wealth."
2. **Legal Challenges:** The executive orders may face legal challenges, creating uncertainty and potential disruptions for businesses navigating the regulatory landscape.
3. **Environmental Impact:** Reducing environmental litigation and regulations could lead to increased pollution and environmental degradation, potentially resulting in higher healthcare costs and reduced quality of life.

Overall, President Trump's recent executive orders are set to reshape DEI and environmental litigation policies, offering both opportunities and challenges for businesses. The impact of these changes will continue to unfold in the coming months, and businesses must remain vigilant and adaptable to navigate this evolving landscape.

What is Difference in Conditions Insurance?

A Difference in Conditions (DIC) policy covers risks excluded from standard property insurance policies. They fill gaps left by primary insurance, providing coverage for unpredictable and severe catastrophic events.

Who Needs a DIC Policy?

DIC policies benefit property owners in high-risk areas prone to natural disasters or businesses needing broader coverage for specific risks not covered by their primary insurance.

What Does a DIC Policy Cover?

DIC policies may include:

- Flood damage
- Earthquake damage
- Landslides
- Business interruption losses
- Spoilage of perishable goods
- Terrorism and other unusual risks

How Does a DIC Policy Work?

A DIC policy supplements your existing coverage. If a covered peril occurs and isn't covered by your primary policy, the DIC policy provides the necessary coverage, acting as primary or excess coverage depending on your existing insurance.

Why is DIC Coverage Important?

DIC coverage ensures comprehensive risk management, protecting against a broader range of potential losses. It offers peace of mind and financial stability, helping businesses recover quickly from unexpected events.

How Much Does a DIC Policy Cost?

The cost varies based on property location, risk level, and coverage extent. Consult with an insurance agent for a personalized quote.

Can I Customize a DIC Policy?

Yes, DIC policies are customizable. Work with your insurance agent to tailor the coverage to your specific needs, ensuring adequate protection for your property or business.

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