PERRIN CONFERENCES

INSURANCE COVERAGE AND ALLOCATION ISSUES CONFERENCE

The Union League of Philadelphia | May 13, 2026

BAD FAITH

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Introduction & Roadmap

- Nuclear Verdicts
- Time-Limited Demands
- Avoiding Bad Faith
- Compressed or Insufficient Limits and Settlement Creep

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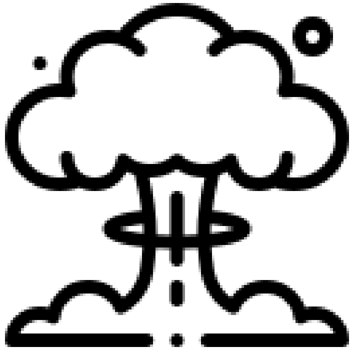
Nuclear Verdicts



- What is a Nuclear Verdict?
- Thermonuclear?
- Rising Severity
  - Median Top 50 U.S. Verdicts has risen steadily since 2014 (exception during COVID – 2020-2022).
    - ***$27.7M (2014)***
    - ***$98.15M (2024)*** – [slight dip in 2025 to $76.9M]

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Nuclear Verdicts - Example

- ***Johnson v. Prairie Farms Dairy, Inc.*, 2017-L-1562 (Mad. Cty. Ill, Cir. Ct.)**
  - ***Verdict?***
  - $5 million - $25 million
  - $25 million - $50 million
  - $50 million - $100 million
  - ***$241 Million***

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Nuclear Verdicts – Claim Handing & Settlement Strategy

Impact of Nuclear Verdicts: Claims Handling

- ***Identify*** "could this pierce the limits?" early – and ***revisit*** often
- Retain trial-capable counsel early when warranted – not just when suit is filed
- ***Early*** damages work-up + realistic valuation
- ***Document*** the evaluation and decisions rationale

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Time-Limited Demands

The Landscape

- Early policy-limits demands are increasing

- Short deadlines + incomplete information force “triage” evaluation

- In a nuclear verdict world, failure-to-settle exposure is magnified

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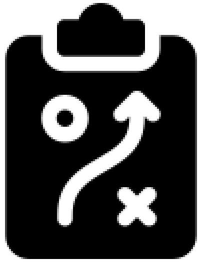
Time-Limited Demands

The Practical Playbook



- Claim handling is under the microscope
- Early assessment & action
  - ***Notify*** the insured
  - ***Identify*** what is needed to evaluate and ***Request*** in writing
  - ***Assess:*** liability clarity, damages trajectory, venue/jury risk
  - ***Seek extensions*** – <u>when necessary and able </u>– document asks/responses
  - ***Clean claim file*** – record of evaluation + basis for decision

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Common Traps

- **Not enough info** to evaluate yet
- **Interpleader** will protect us
- **No demand** means no duty or exposure
- **Insured isn't pushing** to settle
- **Plenty of limits** (insured money not at risk)
- **There are coverage issues / punitives**
- **Appeal will fix** an excess verdict

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Nuclear Verdicts, Bad Faith & Coverage Towers

Compressed / Fragmented Towers → Settlement Creep

- Loss Cost Inflation → reduced capacity / smaller slices
- More Carriers → harder coordination on strategy + value
- Dynamics drive “settlement creep”

What Carriers Can Do - (Resist Creep + Reduce Exposure)

- Assess and Triage early – Revisit Often
- Disciplined TLD Process – Engage Counsel Early - Document Evaluation and Rationale
- Communicate with Insured early and often – Document advice, instructions
- Coordinate the Tower – (shared assumptions, cadence, escalation)

Questions?