

CHUBB BERMUDA

Punitive Damages Wrap Policy

U.S. tort litigation has reached a new level in unprecedented punitive damage awards. It is imperative that companies today understand the changing landscape and consider alternative coverage options, such as the punitive damages wrap.

CHUBB®



What are Punitive Damages?

Compensatory damages only compensate the injured party for the injury sustained. For example, if a defendant collides into pedestrian plaintiff causing \$500 in medical bills and \$500 worth of lost wages, the compensatory award would be \$1,000. Punitive damages, however; are intended to punish the defendant (not compensate the plaintiff) and the objective measures that dictate the amount of compensatory awards (i.e. actual medical costs, lost wages, etc.) are therefore absent from any punitive damages assessment.

Key Insurability Considerations

- Insurability of punitive damages is largely dependent on the state:
 - Punitive damages are generally uninsurable in 13 states: California, Colorado, Florida, Illinois, Indiana, Kansas, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island and Utah.
 - 26 states generally permit the insurability of punitive damages.
 - In the remaining states insurability of punitive damages is either unclear or it is largely dependent upon whether the punitive damages are assessed against the defendant directly or vicariously.

- Only 3% of punitive damage awards occur in jurisdictions where insurability is not restricted.
- Those states where insurability is unsettled or restricted are where the majority of U.S. economic activity occurs and where, according to some data, nearly all of the punitive damages awards are made.

Punitive Damages Wrap Policies

Punitive damages wrap policies (puni-wraps) are procured and issued entirely outside the United States (Bermuda is a preferred country). Consequently, a puni-wrap policy combined with a traditional insurance policy, is not restricted by regulations or public policy that could prevent a domestic policy from covering such damages. As a result, they provide coverage for punitive damages that would not be payable under domestic policies.

Who should purchase a Punitive Damages Wrap?

Companies who have exposure in U.S. states where the insurability of punitive damages is unsettled or restricted.

Punitive Loss Data Examples

1. **Global agricultural chemical company** – allegations by four plaintiffs of a defectively designed product, a failure to warn of cancer risk and the company acted negligently. \$1.5B Punitive Damages Award and \$61M Compensatory Damages.
2. **Insurance company** – plaintiff alleged unfair dismissal as a result of testimony which was due to be given in a class action pay bias lawsuit. \$19M Punitive Damages Award and \$7.6M Compensatory Damages.
3. **American retailer and distributor of automotive parts** – plaintiff alleged pregnancy-related harassment, discrimination, and retaliation. \$185M Punitive Damages Award and \$872,000 Compensatory Damages.

* Awards may be reduced due to damage caps or other relevant factors

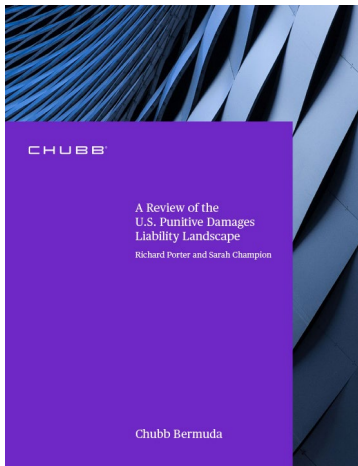
How Chubb Bermuda Can Help

- No classes of business excluded
- Claims paying experience
- Commitment to long-term relationships
- Commitment to superior service standards – policies issued at inception
- 30+ years in the Bermuda Market

Notable Features

- Maximum Limit of Liability: \$50M for Excess Casualty and \$25M for Financial Lines
- Follows the terms and conditions (including limit and attachment point) of the Chubb domestic policy
- 30 days payment terms
- Minimum premium: \$5,000 for Excess Casualty and \$0 for Financial Lines
- Issued entirely out of Bermuda, i.e., underwritten, negotiated, paid for and issued

A Review of the U.S. Punitive Damages Liability Landscape



Contact Us

All inquiries must be made through a Bermuda or UK-based broker.

Note: immediate indications for puni-wrap policies can be made available using Chubb's Punitive Damages Wrap Portal via your requisite Bermuda-based broker.



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Losses

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& Insights to
Keep Risk
Management
on Target

Chubb. Insured.SM

Chubb is a world leader in insurance. With operations in 54 countries and territories, Chubb provides commercial and personal property and casualty insurance, personal accident and supplemental health insurance, reinsurance and life insurance to a diverse group of clients. As an underwriting company, we assess, assume and manage risk with insight and discipline. We service and pay our claims fairly and promptly. The company is also defined by its extensive product and service offerings, broad distribution capabilities, exceptional financial strength and local operations globally. Parent company Chubb Limited is listed on the New York Stock Exchange (NYSE: CB) and is a component of the S&P 500 index. Chubb maintains executive offices in Zurich, New York, London, Paris and other locations, and employs approximately 40,000 people worldwide. Additional information can be found at: www.chubb.com.

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