

Expert Insights: Chubb Excess Casualty's Liability Market Analysis

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As one of the leading writers of casualty business, Chubb is pleased to offer insights and analysis on significant liability issues affecting the industry. Such issues in recent years have included: rising severity claims, a lack of meaningful tort reform, and challenging legal venues. Keeping abreast of developments in these and related areas can be time-consuming – given the wealth of information available through articles, court cases, legal updates, press releases, and the like.

To assist our clients with the most timely and relevant news impacting the liability space, we have partnered with law firm, Cozen O’Connor, in creating our *Expert Insights* newsletter. We hope you find it informative and helpful in addressing such concerns within your business.

Georgia Apportionment Case: Alston & Bird LLP v. Hatcher Management Holdings, LLC

In *Alston & Bird LLP v. Hatcher Management Holdings, LLC*, the Georgia Supreme Court affirmed the Georgia Court of Appeals’ finding that O.C.G.A. § 51-12-33, which allows a defendant to apportion fault to a non-party, is only applicable in cases involving multiple defendants.

In *Hatcher*, the defendant presented evidence of non-party negligence. The jury found the non-party to be 60% at fault for the plaintiff’s damages, and correspondingly reduced the plaintiff’s award against the defendant. On appeal, the Georgia Court of Appeals found that

the statute was not applicable where the plaintiff brought suit against only one defendant. The Georgia Supreme Court affirmed.

This ruling destroys what many assumed was the intent of the statute: that a defendant should be able to apportion fault to a non-party who may have caused the plaintiff’s injuries. This ruling will encourage plaintiffs to target the one defendant with the deepest pocket, which will ultimately preclude a defendant from reducing its level of fault by laying blame on a non-party.

We expect to see legislation proposed to amend the statute to address the court’s literal reading of it.



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Cozen O’Connor

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