

HUB PRIVATE CLIENT

# LESSONS IN EXCESS LIABILITY

Excess liability insurance as a cost-effective wealth preservation strategy



Affluent families and their advisors tend to pay close attention to risk management. Their investment portfolios are diversified, their homes are secure, and their major possessions are insured. There is one notable exception. Far too many families don't adequately protect themselves from the steadily growing threat of liability lawsuits. In fact, only about 20% of homeowners have liability coverage against judgements that exceed the \$1 million limit typically included in their auto or homeowners' policies.<sup>1</sup> Should the worst come to pass, a family's entire net worth, over and above that \$1 million, could be exposed because of a single event. Their salaries could even be targeted to pay settlements over and above their total household net worth.<sup>4</sup>

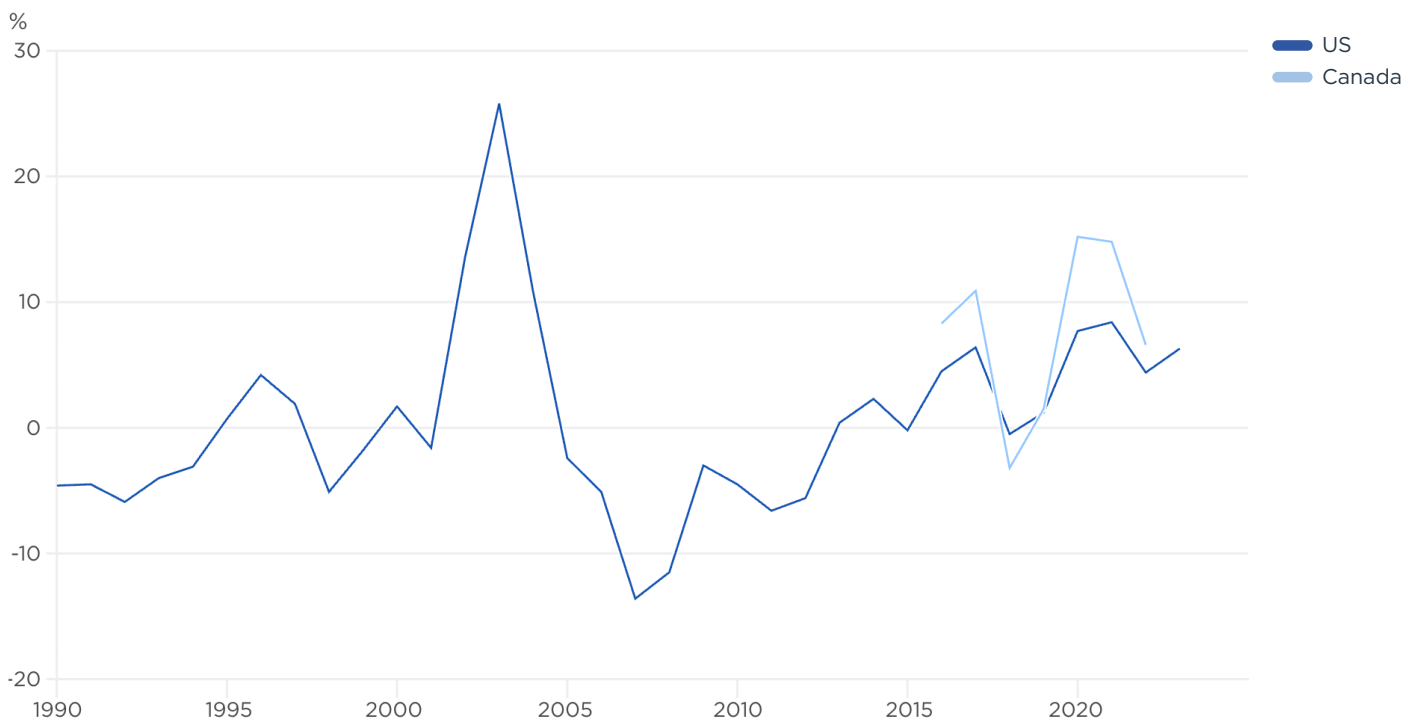
Fortunately, there is an affordable and reliable line of defense. An excess liability policy, also known as an umbrella policy, can eliminate that exposure, typically at an annual cost of approximately \$400 per \$1 million in coverage (depending on your personal circumstances).

## THE KEY DRIVERS OF INCREASED REWARDS AND SETTLEMENTS

Though the laws in Canada and the United States differ on the specifics, personal liability settlements and awards in both countries are based on similar set of factors. Generally, these reflect the circumstances under which an accident took place, the culpability of the parties involved, the extent of the injuries and the financial cost of the care needed to treat those injuries. More serious injuries may also involve the cost of long-term care, and a projection of lifetime lost income. Special damages may also be awarded as compensation for physical pain, emotional stress, pain for the loss of loved ones and other factors that do not necessarily have a direct financial impact on the injured party.<sup>2</sup>

The official factors that determine the amounts of awards or settlements may appear to be rational and dispassionate. In the real world, though, emotion plays a central role. In both Canada and the United States, liability awards and claims are growing faster than can be explained by inflation and other economic factors. Principal among these is social inflation, or the propensity for juries to reach increasingly higher rewards out of sympathy to the victim. In the United States, claims rose 57% in just 10 years.<sup>3</sup> While Canada remains somewhat less litigious than its Southern neighbor, it is catching up quickly. While rewards over \$5 million were once rare, they have become increasingly common<sup>4</sup>, and the average settlement has recently been rising at a 7% clip.<sup>5</sup>

## SOCIAL INFLATION INDEX IN THE US AND CANADA



Source: AM Best, Macrobond, Swiss Re Institute

Note: Showing are the smoothed (three-year averages) trends in US claims severity alongside the weighted

Note: UK estimates exclude the London Market but include some non-UK exposures of contracts with UK insurers

## UNDERSTANDING YOUR EXPOSURES

Many aspects of the affluent lifestyle create liability exposures and may even lead to higher settlements in case of an accident. It's important to be aware of the liabilities inherent in your circumstances, so you can take measures to reduce your risks and secured adequate liability coverage. Here are some examples of these circumstances:

- A high public profile, as it may increase the odds of more frivolous lawsuits and contribute to higher social inflation settlements.
- Social and athletic activities of your children and their friends, particularly if you have a pool, or allow them to use cars, off-road or marine equipment without supervision or training.
- Dogs, horses and other domestic animals can create actionable accidents.
- Hosting guests aboard your boat, yacht or plane, or even parties at your home, as you could be liable if guests are not instructed in safety precautions, or if drugs or alcohol contributes to an accident.
- Contributing the use of your vacation house to a charity or renting it out.
- Service on corporate and nonprofit boards may require officers and directors' coverage in addition to an excess liability policy.

## AN OUNCE OF PREVENTION

Like every other type of insurance, one buys policies in hopes that they will never be needed. However, accidents and incidents that create liability generally cause more than just financial loss. If you have not had a recent, comprehensive review of your risk mitigation strategy, speak with your HUB Private Client Risk Advisor. He or she may be able to call on specialists within HUB and their insurance carrier partners, to assess areas of risk in your personal and business life, and recommend measures to create a safer and more secure environment for you family, guests and employees.



### IMPORTANT DETAILS

It's important that liability coverages be revisited on a regular basis to make sure they keep pace with your lifestyle and changes in your other insurance coverages. Common mistakes include not listing a new car on your excess liability policy when a new automotive policy is written, and not listing trusts and LLC's as property acknowledged for liability coverage.

## ARE YOU AS SAFE AS YOU BELIEVE YOURSELF TO BE?

The results of a 2023 HUB survey of 200 high-net-worth individuals, advisors and wealth managers indicate a perception-reality gap in risk mitigation protocols. While close to 90% of respondents said their risk management program was sufficiently comprehensive, HUB found that:

- Only 16% of affluent families surveyed had recently revised their risk management procedures to reflect their current circumstances.
- Only one out of five respondents indicated that they were seeking to lower risk via higher limits or layered policies.
- Fewer than one third of respondents believed they had adequately protected themselves from cyber threats.
- More than half did not have a risk mitigation protocol for travel, and only 13% had purchased kidnap and ransom policies.

<sup>1</sup> Source: Bremmer Bank. Available at <https://www.bremer.com/insights/personal/2023-02-07-protect-yourself-with-an-umbrella-insurance-policy>

<sup>2</sup> Source: Painworth. Available at: <https://www.painworth.com/painworth-blog/what-do-personal-injury-lawsuits-look-like-in-canada>

<sup>3</sup> Source: Swiss Re. <https://www.swissre.com/press-release/Litigation-costs-drive-US-liability-claims-by-57-over-past-decade-reveals-Swiss-Re-Institute/Ob538159-9648-47da-a152-4550a7640d35>

<sup>4</sup> Source: Canadian Family Offices. Available at: <https://canadianfamilyoffices.com/life-family/personal-liability-settlements-on-rise-in-canada-how-to-arm-yourself/>

<sup>5</sup> Source: Swiss Re. Available at: <https://www.swissre.com/institute/research/sigma-research/sigma-2024-04-social-inflation.html>

## ABOUT PRIVATE CLIENT

Liability exposures are evolving—and so are the stakes. HUB Private Client helps affluent individuals and families safeguard their wealth with tailored excess liability solutions and expert risk guidance. Whether it's a serious auto accident, an injury on your property, or a lawsuit tied to travel, staff, or social media, our advisors help ensure you're protected well beyond the limits of standard coverage. We assess your full risk profile, uncover gaps, and recommend strategies that reflect the way you live today.

Connect with your HUB Private Client Risk Advisor for a personalized review and proactive risk strategies designed to protect your assets, reputation and legacy.

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