

III. COVERAGE TO ASSURED FOR HIS LIABILITY FOR INJURIES TO THE GENERAL PUBLIC.

1. Manufacturers' and Contractors'.
2. Owners', Landlords' and Tenants'.
3. Elevator.
4. Teams.
5. Automobile.
6. Airplane.
7. Product.
8. Protective.

The injuries covered under Public Liability Insurance are those sustained by the public while on and/or off the premises from accidents arising out of conditions for which the assured is responsible. The hazards are peculiar to each of the several lines of insurance falling under this division. With respect to one element underlying the hazard, however, these lines of insurance are similar. That element is the evaluation standard used in reducing the severity of the injury to losses. In all Public lines the monetary measure of the injuries is determined by voluntary agreement or by court procedure. The attitude of the community and of the legal profession is an important factor in deciding whether there will be many requests for settlement of trivial, no-liability or even fraudulent cases, whether there will be voluntary settlements, or whether there will be lawsuits. If the last alternative is chosen, the jury selected from the community will determine the money value of the injury and any liberal or conservative viewpoint of the judges construing the law will be reflected in the losses. The attitude of the Community, the Bar, and the Court presumably will be reflected equally in all classifications, if not in all lines. No attempt is made to account for variations from these sources in selecting the exposure medium. These variations in losses are assumed to occur by districts and are provided for by establishing territorial differentials wherever there is a measurable deviation based on adequate data.

There is another factor underlying the evaluation standard which requires different treatment as it is not subject to territorial differentials. This factor arises out of the maximum limits imposed on the amount per injured and the amount per accident. These excess limits will be designated by *a* and *b* respectively. The

lines of insurance and also the classifications within lines are divided into a few groups according to the excess hazards. It is assumed that within each group the aggregate losses for any classification when evaluated with *a/b* limits will have a fixed relativity to the aggregate losses when evaluated under standard (5/10) limits. No effort is made to reflect variations due to different limits in selecting the exposure medium. The rates are quoted for unit exposure on a standard limit evaluation basis. If other limits are desired, the basic rate is modified by applying to the standard limit rate the excess factor corresponding to the desired limits which is taken from a table constructed for each group of excess hazard. The evaluation standard including excess limits has been eliminated in discussing premium bases for these lines of insurance.

1. MANUFACTURERS' AND CONTRACTORS' PUBLIC LIABILITY INSURANCE.

The hazard in this line arises from the contact of the public with the critical conditions of the assured's premises and operations. The problem here is to select an exposure medium which varies with the critical conditions and the number of the public who, by entering and passing, are subjected to the assured's critical conditions. Some of the exposure media that might be given passing consideration are:

1. Number of Public Admissions.
2. Payroll.
3. Man-Year.
4. Area and Frontage.
5. Value of Product.

1. **Number of Public Admissions.** It would be expected that the number of injuries and their cost would vary with the number of the public who enter or pass the premises or the place of operations and that therefore this number would make a good medium for measuring the exposure. An overpowering objection is that there is generally no record available and that it is quite impractical, if not impossible, to get one.

2. **Payroll.** Presumably the number of the public desiring admission to the manufacturer's and contractor's premises and place of operations, within a given classification, varies with

the size of the plants or operations as roughly measured by the number of employees or the payroll. Payroll exposure responds to the decrease or increase of the aggregate losses brought on by periods of depression and prosperity in industry. It has the practical advantage of being based upon long established records necessary for other purposes, so that it may be readily obtained and checked. The use of payroll records adds to efficiency for, as many risks are insured for Compensation and Public Liability by the same carrier, the same audit may be used for each of these lines.

3. Man-Year. A man-year exposure has the same merits that have just been ascribed to payroll as regards responsiveness to the variation in losses. It is not as practical as payrolls for it is necessary to establish a special record for measuring this exposure. Under present conditions at least this special record could not be used for determining Compensation exposure.

4. Area and Frontage. An area and frontage medium—area of assured's premises and length of premises adjoining public ways—might be used for measuring exposure in Manufacturers' Public Liability Insurance. It would be expected that the number of employees, the payroll, and the size (area and frontage) of the plant would vary in about the same ratio. The area and frontage medium would not respond to variations due to depressions and prosperity. This medium is practical in application as the exposure of manufacturing plants on this basis could be accurately determined with reasonable effort. It would not serve the dual purpose of measuring Compensation exposure at the same time.

The area and frontage basis is poorly adapted to measuring exposure for Contractors' Public Liability Insurance. Area and frontage exposure does not vary and it is fitted to measure only exposures which are continuous and constant. The exposure for a location under Contractors' Public Liability is variable. It begins below average, increases to above average, and then decreases, often tapering off to almost zero.

5. Value of Product. As the value of the product of a given manufacturing establishment reflects the activity it

seems not unreasonable to expect that this product value might serve as a medium for measuring Public Liability hazard. This exposure medium, as already stated under Compensation, would require some rearrangement of classifications, it would vary with the total losses under industrial depressions and prosperity, and it could be obtained readily from available records and checked.

For Contractors' Public Liability the equivalent of the value-of-product exposure medium would be the amount of the contract. Within each classification this may be expected to vary roughly with the payroll or with the man-year exposure. A rearrangement of classifications, taking into consideration the extent to which the cost of material is included in the contract, would be required. Exposure measured through this medium could be readily obtained from available records and checked.

2. OWNERS', LANDLORDS' AND TENANTS' PUBLIC LIABILITY INSURANCE.

Owners', Landlords' and Tenants' Public Liability Insurance is the term used for public liability insurance on assured's premises, other than Manufacturers' and Contractors', and Elevator Public Liability Insurance. As in Manufacturers' and Contractors' Insurance the hazard arises out of the contact of the public with the critical conditions of the premises. Presumably the classifications have been refined so that critical conditions are similar and uniform within the classification. The variations in conditions from classification to classification are so large, however, that no one exposure medium is adapted to all. The exposure media that will be considered are:

1. Area and Frontage.
2. Number of Admissions.
3. Receipts, Admission Charges.
4. Seat-Year.
5. Sales.
6. Rentals.
7. Payroll.
8. Unit-Year.

1. Area and Frontage. This is a dual basis of premium to account separately for the hazard which may be associated with the area of the premises and that which is related to the frontage along public ways. If the nature of the premises is such that there is no frontage, then the hazard there is zero and the dual exposure becomes a single exposure based on area alone. Presumably the accidents vary with the critical conditions and the number of the public coming in contact with them. Within the same classification the accidents probably vary somewhat directly with the inner area and the linear frontage on public ways. On this assumption, area and frontage exposure may be considered to vary directly with the hazard. This exposure medium is better adapted for hazards that are continuous and uniform, or, if varying by seasons, that average about the same from year to year. It is applied to classifications covering buildings of all kinds, signboards, country estates, cemeteries, etc., where there is little variation in critical conditions or in the number of people exposed year after year. The impossibility of concealing exposure on this basis and the facility with which it may be accurately determined give it an important practical advantage.

2. Number of Public Admissions. The hazard due to the number of the public subjected to the conditions of the assured's premises varies directly with the number admitted to the premises. Considered from this viewpoint this medium is a better measure of the exposure than area. It does not account directly for any outside frontage hazard and is adaptable only where the frontage hazard is negligible or bears a fixed ratio to the area hazard within the classification. It is responsive to changes in hazard due to depressions and periods of prosperity.

The number of admissions can be secured in a practical way in only a few classifications. At present this basis is used only for baseball parks. It might be used in amusement parks, theatres, concert halls, bathing pavilions, restaurants, skating rinks, dance halls, and public museums with turnstiles or admission charges.

3. Receipts, Admission Charges. The receipts vary with the number of admissions and thus with the hazard. Like the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.