

Nine Newly Known Unknowns

Executive Summary

A new landscape with new risks and new legal precedents means insurer clients need new solutions.

A NEW LANDSCAPE of casualty emerging risk is forming in the United States. The new terrain includes a revival of bodily injury mass tort litigation and new legal precedents that elevate the need for successfully managing accumulations and creating effective underwriting strategies while providing value to your clients.

Here we will discuss how to navigate this new terrain, and we reveal **NINE RISKS** demanding elevated attention in 2020. Along the way, we show how with new technologies to identify and track risks, insurers can shift from an exclusionary mindset to one of expanded Named Peril coverage and risk management.



BODILY INJURY MASS TORT LITIGATION IS BACK, as juries deliver to plaintiffs in glyphosate (RoundUp) litigation, talc litigation becomes a new wave of asbestos, the mega-scale opioids litigation begins bellwether trials, the “forever chemicals” PFAS raise fears of forever litigation, and repetitive head injuries risk expands beyond pro sports. Insurance clients want new solutions but fears of the “next asbestos” make insurers nervous.

FOUR FACTORS are shaping the risk in this new landscape: A plaintiffs’ bar with new sources of capital; state, local and tribal governments increasingly relying on litigation to address public health issues; a jury pool increasingly predisposed to regard commercial actors as nefarious; and thirty years of accumulated science investigating bodily injury from commercial activity with new mechanisms such as endocrine disruption and the microbiome.



SCIENCE IS THE RISK – HOW UNKNOWNNS BECOME KNOWN. In mass tort litigation, no risk is truly an “unknown unknown” – all risks take years to develop and have prior footprints in scientific literatures or in the courts. This creates a risk emergence timeline you can track if you can harness the data. For eight years, Praedicat has used innovative technology to sort through text-based data to identify and track the newly known unknowns. Our ability to read, quantify and model the science translates the data into actionable information empowering you to anticipate, prepare for, cover and know the unknown.

Horizon Scanning

When we scan the horizon, we identify, measure and quantify risks like the three below, where the first science is emerging. This information can be used as early indicators, for litigation that might emerge 10 years down the road. We are tracking over 250 Named Perils based on current and projected science. Among the newest are:

Horizon Scanning

- Propyl gallate
- Propionate
- Trihalomethanes

Emerging Risks

This is where the science has matured, and we text-mine literatures to predict the future science, describe the commercial footprint and estimate the probability, size, and time path of litigation. These three risks have all crossed the \$1B threshold at 1% probability in our probabilistic model of future economic loss for the first time during 2019.

Emerging Risks

- BPA Replacements
- Cannabidiol (CBD)
- Silver nanomaterials

New Legal Precedent

The opioids litigation in particular is establishing new legal precedents and elevating the risk that other commercially-driven public health issues will result in litigation. These three are public health risks with mature science that could result in state-and-local government-plaintiff litigation, based on precedents set by the opioids litigation.

The “Next Opioids”

- Antibiotics
- Diesel
- Sugar

The 9 Newly Known Unknowns



Based upon our 2019 findings, here are three sets of three newly known unknowns for 2020.

Horizon Scanning

The first set of Known Unknowns consists of three commercial products and activities that have been newly hypothesized in 2019 to cause bodily injury, an analysis that captures low-probability risks that might result in losses in future years. The three we have selected highlight ever-growing concern in science over exposures from food and water. New science is currently emerging around two ingredients found in processed food: propyl gallate, a meat preservative, linked to infertility and propionate, a bread preservative, linked to type II diabetes. In addition, we are tracking trihalomethanes, byproducts of water disinfection, linked to obesity.



Propyl Gallate

Propionate

Trihalomethanes



BPA Replacements

Cannabidiol (CBD)

Silver Nanomaterials

Emerging Risks

The second set of Known Unknowns consists of three commercial products and activities for which scientific research has progressed in 2019 to the point that litigation is potentially closer to starting – specifically, a greater than 1% chance of litigation resulting in \$1B in economy-wide losses.

There is fast moving science and multiple exposures to cannabidiol (CBD), with scientific focus on liver and cognitive injuries. The most widely used nanomaterial, silver, has a growing evidence base around infertility risk. And the BPA replacements are, as a group, frequently shown to be as risky as BPA.

The “Next Opioids”

The third set of Known Unknowns consists of three potential successors to the opioids litigation. Specifically, we profile three commercially-driven public health issues with significant scientific literatures that could result in litigation initiated by state, local and tribal governments. As the legal landscape is shaped by the opioids litigation itself, Praedicat relies on a scenario-based approach to estimate exposures, estimating losses under the extreme scenario that plaintiffs get all they ask for. Sugar is the top risk of this “next opioid” type due to the scale of the obesity public health crisis. Praedicat’s scenario is estimated as \$155B. Primary defendants include sugar-sweetened beverage manufacturers, retailers who sell these products, and fast food restaurants. We also have developed similar scenarios for antibiotics overuse (\$91B), and diesel exposures (\$114B).



Antibiotics

Diesel

Sugar

\$91B

\$114B

\$155B

Praedicat clients are able to develop rigorous methods for managing aggregations to latent bodily injury and latent property damage litigation and exposure-based underwriting strategies for steering their portfolio. This scalable approach to managing and underwriting latent liability risks enables the creation of a Named Peril market for casualty “tail risks.” Tail risks, often excluded or inadequately covered, are a significant coverage gap. With named peril added to existing coverage, and aggregations managed, our approach can create a \$90B annual premium growth opportunity for the industry.

To know more about how Praedicat knows the unknown, please contact info@Praedicat.com.