

**Checklist For Securing Insurance Coverage
 For Mass Tort Liabilities**

©Copyright 1999 Fried & Epstein, LLP

I. Know Your Liability

- Products/Environmental/Asbestos
- Quantify Extent of Exposure
 - Number of plaintiffs/sites
- Identify the Years of Exposure/Injuries
- Identify the Cause of Exposure/Injuries
- Determine the Severity of Injuries
- Quantify potential liability

II. Know Your Insurance

- Tap all available insurance:
 CGL/Products Liability/D&O/Property
- Identify Years of Implicated Insurance Policies
 - Commence Search for Lost or Missing Policies
- Quantify Insurance Limits
 - Factor in Deductibles/SIR's/per occurrence and aggregate limits
- Potential Coverage Defenses
- Determine How Insurance Is Allocated
 - Joint and several v. pro-rata
 - If pro-rata, is insurance allocated by time on the risk, time on the risk multiplied by limits, or some other method

III. Know Your Insurance Companies

- Insurance companies are very hierarchical
 - Determine authority level of claims
 - Identify who will make final decision
- Does insurance company prefer litigation, versus settlement
- Insurance Companies are slow
 - Provide desired information with sufficient time for evaluation

IV. Position case For Settlement From Outset

- Make Frequent Reports
- Reasonably evaluate coverage positions
- Take reasonable allocation approach
- Deal cards straight up in settlement negotiations
- Make carriers full participants in defending underlying cases

V. Prepare Management for Settlement

- Realistically evaluate recovery from settlement, versus litigation
- Realistically evaluate time and cost involved in litigation
- Evaluate relative importance of settlement, versus litigation
- Ensure against unrealistic assumptions
- Timely report all material facts

This Desk Reference Guide is provided to you by

Fried & Epstein, LLP
 Attorneys & Counsellors at Law

Constitution Place
 325 Chestnut Street, Suite 900
 Philadelphia, PA 19106
 215.625.0123
 215.625.0764 Fax

Herald Square Building
 1350 Broadway, Suite 1400
 New York, NY 10018
 212.268.7111
 212.268.3110 Fax

www.fried-epstein.com

