Lowenstein Sandler's Insurance Recovery Podcast: Don't Take No For An Answer

Episode 98:
Weather, Drones, and AI … Oh My! How the Insurance Industry Changed in 2024

By [Lynda Bennett](), [Heather Weaver](), Josh Weisberg

NOVEMBER 2024

Lynda Bennett: Welcome to the Lowenstein Sandler podcast series. I'm Lynda Bennett, Chair of the Insurance Recovery Group at Lowenstein Sandler. Before we begin, please take a moment to subscribe to our podcast series at lowenstein.com/podcast, or find us on Amazon Music, Apple Podcasts, Audible, iHeartRadio, Spotify, SoundCloud, or YouTube. Now, let's take a listen.

Welcome to Don't Take No For an Answer. I'm your host, Lynda Bennett, Chair of Lowenstein Sandler's Insurance Recovery Group. Today I'm joined by Josh Weisberg, Chief Risk Officer of SterlingRisk, and my colleague Heather Weaver, counsel in our insurance recovery group. So, Josh and Heather, welcome to the show.

Heather Weaver: Thank you for having me, Lynda. I'm happy to be here today.

Josh Weisberg: Thanks to you both for having me today. Thrilled to be here.

Lynda Bennett: Great. All right, so let's jump in. As we approach the end of 2024, on today's episode, we're going to take a look back at the top insurance market trends over the last year or so, and maybe we'll give some predictions about 2025 on this episode or a future episode. We will focus on certain areas in which insurance companies are increasingly looking to restrict coverage so that businesses know what to look out for during the renewal process, and we'll also share some steps that businesses can and should take internally to make sure that they're presenting themselves as an attractive risk as they go through that underwriting process.

Heather Weaver: So, Josh, as we know, the insurance market is a massive industry that's constantly changing. Why don't we start today by having you tell our listeners your top picks for the types of insurance that have seen the most change over the last year?

Josh Weisberg: That's a really great question. I would say that property and casualty, more specifically, the excess umbrella markets are where you're continuing to see a lot of what we saw in 2023 and even in 2022 and prior, which is restriction on coverage terms, rate increases. Funny when we do these kinds of conversations or have these kinds of conversations, I feel like, over the last couple of years, a little bit of a broken record or a broken podcast in the sense that we're constantly talking about rate increases, doubling, tripling, coverage terms being drastically restricted, higher deductibles, sublimits are being introduced into property coverages, for example for flood. There is some good news in the sense that we're starting to see some rate relief in particular segments and business classes, and we're starting to see some broadening in coverage terms. But fundamentally, I would say that you're still looking at the same core lines, property and casualty, and specifically excess liability; and in the cyber insurance market and segment as well, rate and terms are definitely still the focus.

Lynda Bennett: Josh, let me ask you a question about that because we have a number of clients that have been scratching their heads for the last couple of years, particularly on the PNC coverage line. They have a clean claims history, and their premiums are going through the roof. What's behind that?

Josh Weisberg: So, there are a few different things that are driving premium. Obviously, your own loss experience or an insured's own loss experience is part of that calculus. But more broadly in the property space, it's what we're seeing in terms of global and then obviously here in the US, national claims trends. We are seeing more instances of wildfires and we're seeing higher frequency and severity for significant storm activity, including hurricanes. There is renewed focus on earthquake and concerns related to earthquakes since there hasn't been a major earthquake in quite some time. You start looking at all these different factors and again, driven by climate change, it is less to do with any specific insurance loss experience and more to do with the macro trends that insurers are starting to see or have been seeing, and experiencing, what these larger catastrophic losses.

Lynda Bennett: So, what is a policyholder that has that clean claims history to do to make them a more attractive risk on this front?

Josh Weisberg: So, it's obviously a really, really good question. If you ask me, you have to take a step back and you really need to look at what premium has done over the last few years and how underwriters have looked at each specific risk and how they want to price out taking into account trends. There's nothing that you, as a policyholder, can really do about those macro trends. What you can do is you can control the micro conversation. So, when you look at double-digit rate increases just within the property sector over the last three or four years, and you're starting to see some leveling off, as I said before, when we have these conversations, it feels like there's just been a lot of bad news. It's great to have some aspect or some ability to really talk about good news in the sense that there has been some indications that we're starting to see rate relief, but where you are seeing that rate relief is in very particular business sectors or asset classes and those that are best in class within those asset classes.

So, we're starting to see some of our clients are getting either flat renewals or slight decreases in rate as opposed to some of those double-digit increases that we've been seeing over the last few years, and that's where they can show good risk control. Carriers, particularly here in the Northeast, they want to make sure that you have a good water damage mitigation plan. They want to make sure that you're inspecting your pipes and your plumbing systems. If you're based in the Southeast, if you're based in Florida, they want to make sure that you have appropriate flood controls and hurricane related safety measures that you've implemented within your buildings as well.

So, it's all about showing the underwriters that you are forward-thinking. It's all about showing the underwriters that you've done what you can to control those risks. That's how you're really tap into those markets that are going to give you the rate relief and more importantly, but really equally as important, the broader coverage terms. They're not going to hit you with those sublimits for flood, they're not going to hit you with those higher name storm deductibles, if you can show that you are again that best in class risk.

Lynda Bennett: Well, I'm really glad that you're emphasizing the sublimits and these named stormed events because typically when we're talking to our clients after a major weather event like this, it comes as a very big surprise that they have sublimits, or it matters whether it was Super Storm Sandy or Hurricane Sandy, the amount of coverage that they're going to receive. And so, one of the things we like to do on Don't Take No For An Answer is make sure that people are forward-thinking as you said. Part of that is sitting down with your broker and going over the renewals and having a careful eye on sublimits, named stormed events, and these exclusions that are coming on. That's a great tip. Appreciate that.

Josh Weisberg: Lynda Makes a really great point. One of the things that insurers and policy owners and clients should be doing is obviously having constant conversations with their coverage counsel and with their broker about the kinds of terms that are being introduced into these policies. It's not just about rate relief. It's easy enough to get rate relief if you're willing to horse trade on more restricted coverage. Some of the things that we're seeing out there in the market space in terms of what I would call relatively newer restrictions on coverage, and it's funny, for example margin clauses, we're starting to see margin clauses more and more frequently on property policies. And just to take a step back for a second, a margin clause is essentially a way of the insurance company requiring you to declare what the replacement value is for your property. So, if you declare to the underwriters it's going to cost $5 to bring your building back to square one, if it's a total loss, they'll give you a certain percentage over and above that $5, usually 25%, something in that range.

But anything above that, the underwriters will not cover. So, for example, you could have a maximum of $7.50 worth of coverage under your policy if you have a margin clause. And we're seeing that more and more often. Very much more to the point, but we're also starting to see more expensive use warranty endorsements, protective safeguard endorsements, carriers are requiring dovetailing with that risk control piece we talked about before. Underwriters are requiring you to have specific fire suppression systems inside your building. And you have to make sure that those suppression systems are operational throughout the policy term. If you're not talking to your coverage council, if you're not talking to your broker, you're not going to know that those provisions exist within your policies, and more importantly, how to apply those policy provisions and how to interpret them so that you know what you're getting into when you're binding up that policy.

Lynda Bennett: And we know well on this show the importance of using a highly qualified broker because not all brokers are created equal, nor are all the terms and conditions in a policy created equal. So, Josh, we know that you work quite well with your clients. And before we move on, I do have to just make a quick note, warranty endorsements really made my ears perk up. And one of our other core principles on this show is the words always matter, and that's never more true than when you're providing a warranty letter or a warranty endorsement. So, any listeners that are getting that added to their policy, boy, you better take a careful look at that and go over it with your broker and your coverage counsel to make sure you don't get an unhappy surprise after a claim comes in.

Heather Weaver: Josh, before we move on from the property space, there's one other interesting type of insurance. It's a newer type of insurance that we were actually recently discussing called parametric insurance. Can you explain to our listeners what parametric insurance is and in what circumstances it might be desirable or beneficial for a business to purchase that type of insurance?

Josh Weisberg: Yeah, sure. So, it's funny, parametric insurance, it has existed for a little while. It's gotten more play over the last, I'd say over the last five years or so, as rates in the property insurance market have skyrocketed, especially in those areas of the US where it is extremely difficult to almost impossible to find adequate limit to cover a particular property. So, for example, in Florida, certainly historically over the last couple of years, it has been very difficult to place property insurance. In California, after we had that real outbreak of wildfires over the last few years, it became even more difficult to place property insurance there. So, what parametric insurance does is it gives you coverage for a defined set of triggers. So for example, instead of the policy saying, "I'm going to cover you to replace your building if a hurricane comes through and blows the whole building down", what the parametric insurance policy said is, "I will cover you for a specific amount of coverage, let's say a million dollars, in the event that a category three hurricane with wind speeds of 175 miles an hour, almost within 25 miles of your insured location."

So, it's a defined set of coverage triggers. It gives you cost certainty because you know I'm going to get a million dollars if this event happens. The flip side is that you're not getting full replacement costs on that policy typically, and it's very defined and very sub-limited. So, you get on the one hand, the certainty, but on the other hand, you're not getting replacement cost coverage under that policy, insure the policyholders that are having difficulty placing property insurance, and particularly those that have a loan and they need to get to certain limits of coverage, sometimes they'll explore parametric insurance. That's where parametric insurance can potentially fill a gap. But as I said before, it's a fairly unique form of coverage and absolutely if you're exploring placing a parametric policy, I can’t think of a line or a product line that you would need your coverage attorneys, and you would need your broker to give you really good advice on how that policy should be applied on the front end. It's a very exotic form of insurance.

Lynda Bennett: Josh, as you were talking about it, my eyes were lighting up, because boy, you can just imagine the claim scenarios, and also having your coverage counsel look at the policy before it's put in place to avoid claim disputes later. But sounds pretty complicated and laden with a few rabbit holes that need to get plugged up. Also, one other question I wanted to ask before we leave property, and I know this through my personal experience, there are certain carriers that are now using drones as part of their underwriting process. A number of friends and family are not able to get quotes from certain insurers because they send a drone flying over your house and count the number of trees and look at how close the trees are to your house. And I was wondering if you're seeing a similar use of, I'll call it new and emerging technologies, being overlaid on the underwriting process in the commercial space as well.

Josh Weisberg: So, I think the drones are definitely, they're getting more and more play. I would say in the commercial space we haven't seen it as much. I would say that carriers are using technology particularly in underwriting commercial property in combination with human intel. And what I mean by that is carriers will absolutely use 3D mapping, 3D imaging. When they go out to potentially underwrite a risk, they're still sending out engineers to take a look at properties and doing their due diligence as they're exploring underwriting a potential risk. I wouldn't say that there's anything specific that I'm seeing in that space that's necessarily more cutting edge than drone usage. A lot of what's happening still is, as you said before, it's really being driven by some of those macro trends, and more specifically the micro trends evolving that particular insurance loss experience, and what they've done to harden the risk against the potential casualty event.

Lynda Bennett: Yeah, one of the things that also popped to my mind with the use of drones, and policyholders should be thinking about it too as an event is happening or in the immediate aftermath of an event happening, that's a good way to start documenting your loss I would think, to make use of drones.

Josh Weisberg: Without a doubt. It's an interesting concept. One of the things that we are seeing insurance companies do as they're responding to losses, and this is technology that they are aggressively exploring, is the use of artificial intelligence animatronics and drones to try to drive efficiencies in the claims adjustment process. I think that more often we're seeing insurance companies that are looking to remote adjust losses, not necessarily in the more complex commercial property spaces, but certainly in the auto space we're seeing it more and more. You'll start seeing that expand as the technology evolves.

Lynda Bennett: Yep. Well, and AI is a whole other podcast we're going to do with you Josh, and I wonder whether junior underwriters are even going to have a job, but that'll be for another day. Alright, so as predicted, we have a lot to cover and obviously the deep dive into property was well worthwhile given all of the major weather events as you mentioned Josh, that have happened this year, coast to coast, and don't seem to have an end in sight. You've given our listeners some really good insights about what's happening and what's to come. Everybody better write down parametric insurance and ask their insurance broker about that with that new emerging policy. But if you would be so kind, we'd love to have you come back and record another episode with us so that we can do the similar type of deep dive into cyber and general liability in excess markets so that our listeners can be well-prepared for what's coming in '25.

Alright, thank you both for joining us today and we'll pick up this conversation real soon.

Heather Weaver: Thank you both.

Lynda Bennett: Thank you for listening to today's episode. Please subscribe to our podcast series at lowenstein.com/podcast, or find us on Amazon Music, Apple Podcasts, Audible, iHeartRadio, Spotify, SoundCloud, or YouTube. Lowenstein Sandler podcast series is presented by Lowenstein Sandler, and cannot be copied or rebroadcast without consent. The information provided is intended for a general audience and is not legal advice or a substitute for the advice of counsel. Prior results do not guarantee a similar outcome. Content reflects the personal views and opinions of the participants. No attorney-client relationship is being created by this podcast, and all rights are reserved.