# City of Tumwater
# Council Best Practices

*Presented by*
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**Executive Director**
**Washington Cities Insurance Authority**

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## Washington Cities Insurance Authority

- A municipal non-profit organization of Washington public entities joined to share risk
  - Over 165 members and $222 million in assets
- Advantages of WCIA Membership
  - Run by a board of directors composed entirely of members
  - Assist members in avoiding and reducing losses through risk management, training, and claim handling
  - Stability and transparency in rates
  - Coverage decisions made by the Executive Director with appealable rights to the Executive Committee

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# Washington Cities Insurance Authority

- Provides Self-Insurance Liability Coverage
  - Auto Liability, General Liability, Employment Practices, Errors & Omission
  - $20,000,000 per Occurrence
  - Look for coverage not exclusions
- Additional Insurance Coverage
  - Member Property, Auto & Boiler Machinery
  - Crime Fidelity purchased by members
  - Cyber and Pollution Premises Liability purchased for all members

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# Insurance Market Update

- Insurance is a cyclical industry prone to large pricing deviations from year to year
  - WCIA's overall reinsurance rate has increased 700% from 2015 – 2025
  - WCIA's 2026 renewal mixed results
    - Liability reinsurers requiring WCIA to increase our SIR from $4M to $5M while reducing their available capacity and charging more for less coverage = hard market
    - Property rate decreased while also increasing Members earthquake coverage; pay less for more = soft market
  - 2026 WCIA's overall liability rate increased by 3%


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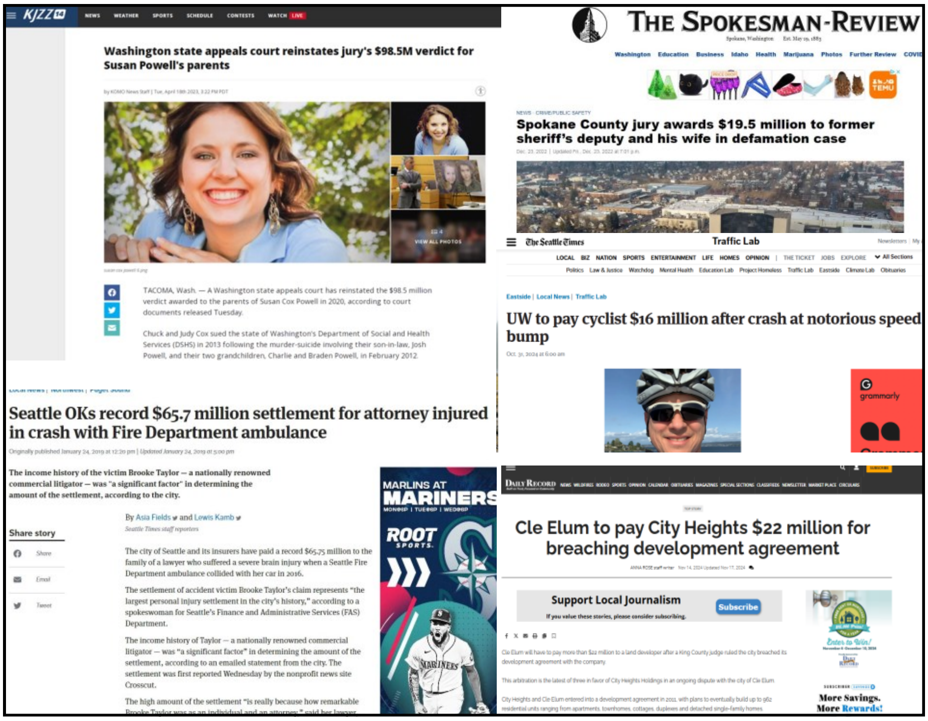

KJZZ

Washington state appeals court reinstates jury's $98.5M verdict for Susan Powell's parents

TACOMA, Wash. — A Washington state appeals court has reinstated the $98.5 million verdict awarded to the parents of Susan Cox Powell in 2020, according to court documents released Tuesday.

Chuck and Judy Cox sued the state of Washington's Department of Social and Health Services (DSHS) in 2013 following the murder-suicide involving their son-in-law, Josh Powell, and their two grandchildren, Charlie and Braden Powell, in February 2012.

THE SPOKESMAN-REVIEW

Spokane County jury awards $19.5 million to former sheriff's deputy and his wife in defamation case

The Seattle Times

UW to pay cyclist $16 million after crash at notorious speed bump

Seattle OKs record $65.7 million settlement for attorney injured in crash with Fire Department ambulance

The income history of the victim Brooke Taylor — a nationally renowned commercial litigator — was "a significant factor" in determining the amount of the settlement, according to the city.

By Asia Fields and Lewis Kamb

Seattle Times staff reporters

The city of Seattle and its insurers have paid a record $65.75 million to the family of a lawyer who suffered a severe brain injury when a Seattle Fire Department ambulance collided with her car in 2016.

The settlement of accident victim Brooke Taylor's claim represents "the largest personal injury settlement in the city's history," according to a spokeswoman for Seattle's Finance and Administrative Services (FAS) Department.

The income history of Taylor — a nationally renowned commercial litigator — was "a significant factor" in determining the amount of the settlement, according to an emailed statement from the city. The settlement was first reported Wednesday by the nonprofit news site Crosscut.

Daily Record

Cle Elum to pay City Heights $22 million for breaching development agreement

Support Local Journalism



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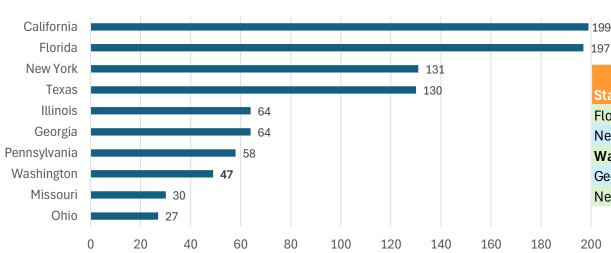
# WCIA – Market Update (Liability)

- Proliferation of nuclear verdicts (National)
  - U.S. Chamber of Commerce Institute for Legal Reform
  - Rising trend nationwide
  - Washington #3 per capita and rising
  - Tort reforms – 3rd party funding, non-economic damages, phantom damages, sound science in courtroom

Top 10 States by Cummulative Nuclear Verdicts 2013-2022




| State | Per Capita Rank | Nuclear Verdicts per 100K Population |
|---|---|---|
| Florida | 1 | 0.939 |
| New York | 2 | 0.664 |
| **Washington** | **3** | **0.633** |
| Georgia | 4 | 0.612 |
| New Mexico | 5 | 0.572 |

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# Avoiding Liability

Individuals can receive absolute immunity for legislative activities

- Adoption of budgets, ordinances, and resolutions

Only within context of council meeting as a whole and not acting as an individual

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# Avoiding Liability

Land Use

- Use of Hearing Examiners
  - Less issues with appearance of fairness doctrine
  - Eliminates many arbitrary and capricious decision allegations
- Do not insert yourself in the process
  - Westmark v. Burien, Mission Springs v. Spokane
- Development Agreements
  - Held to contractual law and remedies which may not be covered by WCIA
  - You thought you had an expiration date…

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# Avoiding Liability

Personnel

- Stay in legislative role
  - Set policies, budgets, municipal codes
    Do not to stray into Executive role
    - Management of employees, hiring/firing, discipline
- Harassment and Discrimination
  - Held to same standard as City employees
    - Can be sued individually
    - Know the law and your policies
  - Report to Executive
    - If you witness behavior or are made aware of problem by employee

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# Avoiding Liability

Negligent Misrepresentation

- Do not make specific promises or assurances
- Refer specific questions to staff
- Do not take matters into your own hands

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# Avoiding Liability

Defamation

- If the statement/opinion is regarding a legislative concern you have immunity

- Careful discussing or naming individuals
  - Are they a public official, staff or private individual?
  - Any untruth gives rise to liability

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# Avoiding Liability

Public Works

- Do not "politically engineer"
  - Crosswalks, Signs, Speed Limits, Traffic Control Devices
    - Ask for staff input off the record
    - Have staff respond to public requests
  - Joint and Several Liability
- Avoid promises, assurances and inflammatory statements

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# Avoiding Liability

Do not leak Executive Session information

- Resist the temptation to share
- Disclose conflicts prior to session and recuse yourself
- Claims and Litigation
  - Can jeopardize defense
  - Possible sanctions imposed

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# Avoiding Liability

Be mindful of written communications

- Email/Social Media
  - Always use City email address, not personal
    - Public record and discoverable in litigation
  - Is your social media account personal? For election activity? To discuss City business?
    - Do you allow comments and discussions?
      - » Possible Public Forum creation with First Amendment Protections

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Insurance Authority

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