

Will PFAS Become the Next Asbestos? Scott Seaman Addresses Emerging Liability Challenges for the Insurance Industry

Via Law360 Insurance Authority

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In a recent article by *Law360 Insurance Authority*, Scott Seaman, a partner based in Chicago and co-chair of Hinshaw's global Insurance Services Group, addressed how the insurance industry will be impacted by the thousands of pending lawsuits alleging that manufacturers have caused environmental damage and health issues from exposure to PFAS (per- and poly-fluoroalkyl substances), commonly known as "forever chemicals."

Seaman suggested that due to the persistent nature of these chemicals in the environment, PFAS litigation could pose a significant liability for insurers, potentially rivaling the long-term liabilities associated with asbestos.

Law360 Insurance Authority excerpt:

The chemicals have garnered widespread use across a variety of industries because of their fire, oil and water-resistant properties, potentially making them as ubiquitous as asbestos, according to Scott M. Seaman, a Hinshaw & Culbertson LLP partner.

He said PFAS has the makings to be a source of significant exposure for insurers and their policyholders, noting that litigation over PFAS-related harms will likely come in waves similar to long-tail liabilities such as those related to asbestos.

"My entire career I've gone to conferences where the question was 'what's going to be the next asbestos?'" Seaman said. "Usually the conclusion was that asbestos was going to keep being far and away the largest exposure, but with PFAS, I think we may have found something to rival asbestos."

While manufacturers of PFAS have been the initial targets of litigation, Seaman said the universe of defendants will continue to expand to include companies that use forever chemicals to treat the products

they manufacture and companies with supply chain exposures.

Unlike asbestos, however, the science surrounding PFAS-related harms is still being developed, Seaman noted.

Additionally, Seaman outlined the various PFAS challenges that both insurers and policyholders may face, including the intricacies of knowledge-based defenses and the need for thorough record assessments. As federal and state regulations continue to evolve, the potential for increased liabilities raises critical questions about insurance claims and coverage exclusions. *Law360 Insurance Authority* excerpt:

Seaman, an insurer attorney, added that PFAS-related claims are bound to implicate a range of coverage issues, from knowledge-based defenses such as expected or intended damages or known losses to noncompliance with policy terms defenses.

Because of the long-tail nature of PFAS claims, Seaman said, policyholders will need to look at their records and use archaeologists to identify coverage. Insurers should also be looking through their past claims from policyholders to see whether PFAS claims have been released, he said.

“For example, if there was a prior environmental case, releases may have been broad enough or the dismissal orders may have been broad enough to release or bar PFAS claims,” Seaman said.

Increasing federal and state laws and regulations governing PFAS will likely continue to fuel liabilities for companies and, consequently, the number of insurance claims, experts say.

“Actors are being judged for their past conduct based on present standards,” Seaman said. “All of this is happening in an environment supercharged by social inflation and nuclear verdicts, so it makes for the potential of large exposures.”

[...]

Though liabilities are likely to increase, that does not necessarily mean that a company is going to get insurance coverage, said Seaman.

“That may be a little different than the asbestos arena because of exclusions that are more likely to apply or more restrictive terms of coverage under contemporary policies,” he said, adding that insurers also have a strong case for not covering regulatory compliance claims.

[Read the full article](#) (*subscription may be required*).

- “[PFAS Claims Expose Insurance Industry To ‘Next Asbestos’](#)” was published by *Law360 Insurance Authority* on February 13, 2025.

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