

How the Rollout of 5G Could Affect Insurance Claims

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by [Environmental Health Trust](#)

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John Czuba of Legal Talk network interviews Michael Watza, attorney from [Kitch Drutchas Wagner Valitutti & Sherbrook](#) on 5G and insurance claims. Mike Watza serves as general counsel to PROTEC, a governmental consortium of over 100 cities across Michigan focusing on municipal rights of way concerns.

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Excerpts from the interview

Mike Watza: "The new technology to try and densify the bandwidth and get up to speeds that 5G is advertising, requires that these small cell towers be put very close to the consumer. The user of the bandwidth. The intent is to get these right down at street level including in front of our houses, or behind our houses, or on a utility pole, perhaps sitting at a point in the street where the kids are waiting for the school bus. That is the concern. Because now, these transmitters that used to be several 100 feet in the air and maybe a mile away or more are right over our heads."

"There are a couple studies that have been done recently, one report in 2018 by the US government. NTP, National Toxicology Program, issued a study that found exposure to these bandwidths could cause...The study found that these bandwidths

and frequencies, referred to as radio frequency radiation, could cause and did cause in rats over a two year study cardiomyopathy, malignant schwannoma in the heart, malignant glioma in the brain, adenomas in the pituitary gland, adrenal cytomas in the liver, malignant glioma in the prostate, and a significant increase in DNA damage in the hippocampus cells of male rats."

"So the medical experts out there who conducted or peer reviewed this study, the conclusion is that there appears to be some possible connection between these cell related frequencies and at least pre- cancerous developments. I won't say that it's been confirmed, but it raises concerns. Most recently, July of this year, the environmental groups, one of them in particular, The Environmental Working Group or EWG, issued a study result that confirmed or tracked some of these same results."

"Anybody who's been in the insurance industry for any length of time and who like me... practiced in the area of mass torts, which I and my firm still have a hand in, knows what happened with products like asbestos and tobacco.

"If you're familiar with asbestos or tobacco in particular and you saw how that developed back in the '50s, '60s, and '70s I wasn't a lawyer back then, but I certainly read a lot of the material that was out there- there were these same kinds of growing numbers of studies and warnings that developed into more specific concerns over the course of decades. All that of course then led to massive amounts of litigation."

"To my mind, we have the risk, not only of the substantive result in a litigated matter where somebody can prove an injury related to these transmissions, but the other key concern and cost, is the cost of defense because, essentially, everyone across the country could be a plaintiff even if they aren't specifically named in multiple class actions."

"That means, if you're familiar with class action litigation, that you get one person to step up as a representative of the class and you arguably have 320 million Americans included in that class. The cost of defending that can be overwhelming, and in many cases, certainly in the asbestos arena, led to the bankruptcy of not only many of the producers, but in some cases their insurers and many others in the chain of distributors and users of such products."

"That's bad enough for the providers and their carriers, but for the potential municipal defendants who are at the end of the approval and installation process, it potentially leaves them holding the bag, so to speak, because notwithstanding indemnity language and notwithstanding insurers standing behind the providers and the installers, when those folks go to bankruptcy court, that's going to potentially leave local government holding the bag at the end of the line."

"Of course, the local governments have various immunity defenses as well as the argument that under current federal and state law, they had no choice but too quickly and with minimal review, approve these facilities. And they are backed by the full faith and credit of the taxpayer; which is ironic, since the taxpayer, of course, is also the customers and users of these wireless service providers and facilities. It's an insidious circle. Those are some of the risks in my mind, and that's why we're talking."

"I think the insurance industry's got to be very careful about where it provides coverage."

"In conclusion, the environmentalists who have these concerns and who are pressing them, don't have to necessarily prove all this in stone. They just have to present enough to create interest in it, and to get a jury or just one a court thinking and opining, 'Hey, this RFR might be a problem,' and the next thing you know, you've got tens of thousands, even millions of claims filed. Then you get into that ultimate problem of how

in the world do we finance the defense of this?"

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