



BITNER HENRY
INSURANCE GROUP

NUCLEAR VERDICT CASE STUDY

Provided by Bitner Henry Insurance Group

What Is a Nuclear Verdict?

Nuclear verdicts refer to exceptionally high jury awards—generally, those exceeding \$10 million. Such verdicts have become increasingly common in the past decade. In fact, communications firm Marathon Strategies reported that 135 corporate lawsuits across 55 different sectors led to nuclear verdicts in 2024, totaling \$31.3 billion. This marks the highest number of such verdicts since 2009, representing a 52% increase in frequency and a 116% rise in severity compared to the prior year.

A variety of factors have contributed to this trend, including rising litigation funding, eroding tort reform and heightened juror skepticism toward corporate defendants. Amid growing corporate distrust, businesses have not only been expected to meet higher standards in their operations but have also been held more accountable for their wrongdoings. Upon being sued and taken to court, businesses have frequently encountered juries that are sympathetic to plaintiffs. Compounding this issue, there's a rising perception that

businesses (especially large ones) can always afford the cost of damages. This means juries are likely to have fewer reservations when awarding substantial damages to plaintiffs, resulting in nuclear verdicts.

Nuclear verdicts can carry significant consequences for businesses of all sizes and sectors, causing lasting reputational harm, posing underinsurance concerns and wreaking large-scale financial havoc. They may also erode liability coverage limits across multiple layers, increase reinsurance costs and prompt stricter underwriting scrutiny across casualty lines. That's why it's vital for businesses to better understand these verdicts and how to prevent them. This case study summarizes a recent nuclear verdict, outlines factors that led to the verdict, highlights associated compliance considerations and provides related risk mitigation measures.

\$15.8 Million Premises Liability Loss

In November 2021, a 9-year-old boy was attending another child's birthday party at the sports entertainment chain Topgolf in Hillsboro, Oregon, when he was struck in the head with a golf club and suffered lasting injuries.

CASE DETAILS

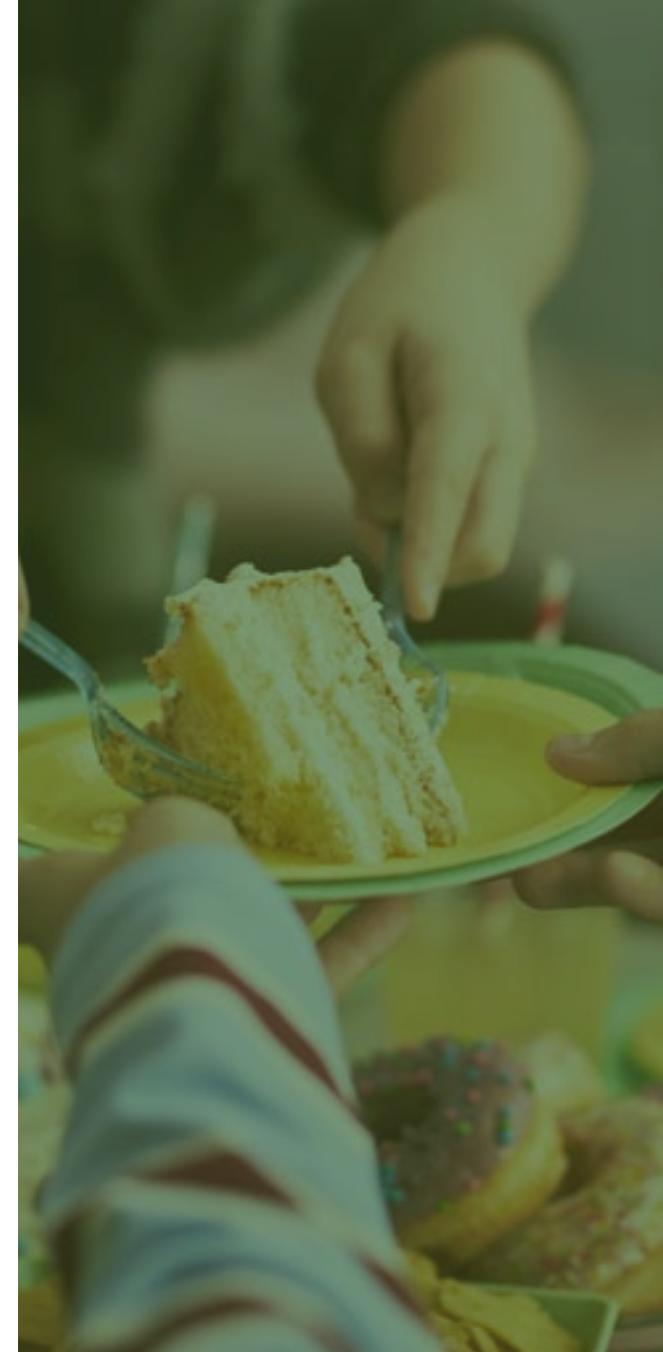


In November 2021, a 9-year-old boy was attending another child's birthday party at the sports entertainment chain Topgolf in Hillsboro, Oregon, when he was struck in the head with a golf club and suffered lasting injuries. According to the venue's surveillance footage from the event, the boy was moving back and forth between designated putting areas and tossing golf balls onto the driving range. In the process, the boy crossed a red safety line intended to warn guests to maintain ample clearance for those actively swinging their golf clubs. When the boy crossed the line, he ended up directly behind another child who was mid-swing. Seconds later, this child finished swinging his club and accidentally struck the boy in the forehead with significant force.

According to court records, the incident left the boy with multiple severe injuries, including an open depressed skull fracture, orbital roof fracture, cerebral hemorrhage and traumatic brain injury (TBI). These injuries had to be treated with emergency neurosurgery, with three titanium plates being placed in the boy's skull. In the years since the incident, the boy continues to face challenges from his TBI and surgical procedure, including chronic headaches, mood swings, anxiety and a prominent facial scar.

In 2023, the boy's mother filed a lawsuit against Topgolf, alleging that the company was liable for the hazardous conditions and lack of oversight at the venue and, in turn, contributed to her child's injuries and ongoing suffering. Specifically, the lawsuit claimed that Topgolf staff failed to provide the required venue tour and safety briefing at the start of the birthday party, which would have explicitly instructed guests to stay behind the red safety line to avoid being struck by swinging golf clubs. Several testimonies during the legal proceedings also revealed that similar incidents had occurred at Topgolf locations over the years, and the company had been told by a safety expert to consider installing additional safeguards (e.g., barriers and dedicated staff to supervise putting areas) to protect guests from swinging clubs going forward—none of which the company decided to implement. Topgolf's attorney argued that the red safety line and recurring audio announcements reminding guests to stay behind it demonstrated that the venue had taken clear precautions to prevent potential injuries, and that the birthday party hosts were ultimately in charge of supervising the children at the event.

In September 2025, a federal jury determined that Topgolf was 97% responsible for the boy's injuries, while the birthday party hosts were 3% at fault. As a result, the jury awarded \$12.5 million for the child's continued pain and suffering and \$3.3 million in economic losses for the boy's mother, generating a total verdict of nearly \$16 million. Altogether, this verdict emphasized the heightened standard of care expected from businesses that provide services to families and young children, showcasing the importance of balancing the overall guest experience and venue design with public safety.



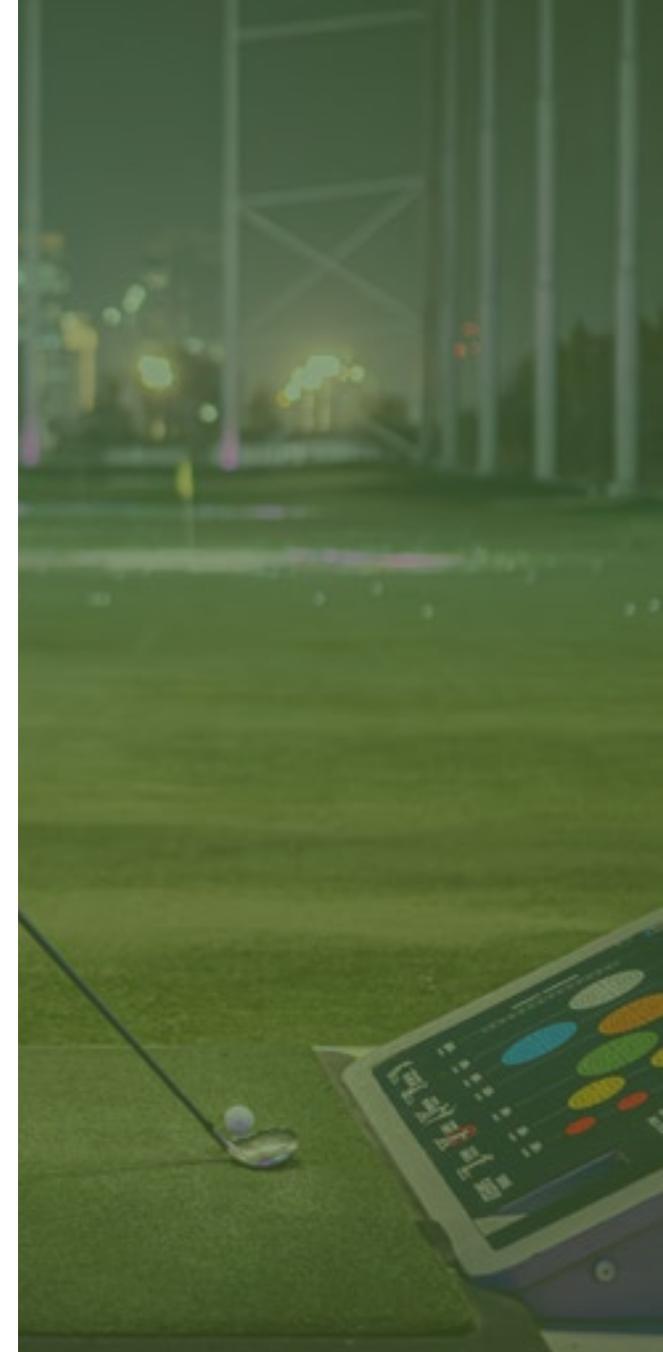
FACTORS THAT LED TO THE VERDICT



Upon closer examination, the main factors contributing to this nuclear verdict were alleged hazardous conditions and supervision gaps at the venue, and a failure to adequately address them or warn guests of their existence.

Although Topgolf did recognize the struck-by hazard associated with guests misusing putting areas or standing too closely to swinging golf clubs and implemented certain precautions in an attempt to warn guests of this hazard (i.e., the red safety line and recurring audio announcements), these precautions were ineffective. In particular, these precautions likely weren't clear or noticeable enough to draw the necessary attention from the children at the birthday party in time for them to understand and avoid the hazard. Complicating matters, some precautions—namely the required venue tour and safety briefing—were skipped entirely.

What's more, Topgolf's existing safety precautions relied too heavily on guest behavior. By keeping a venue design that identified hazardous conditions but failed to physically separate guests from them, guests remained susceptible to potential incidents and injuries. Especially as it relates to the birthday party, Topgolf may have assumed that the children's parents and other supervising adults would reinforce safety precautions and prevent dangerous behavior; nevertheless, this responsibility still primarily fell on the venue.





COMPLIANCE CONSIDERATIONS

This case also raises compliance considerations regarding premises liability. Such liability applies to all rental properties, office buildings, retail stores, public venues and other types of commercial buildings or spaces under a business's management or control. **This form of liability requires the owner or occupier of the property to uphold the duty of care, which means they must take reasonable action to identify and correct hazards on the premises or, when hazards cannot be remedied, warn visitors of these dangers.**

Although specific legal standards vary by jurisdiction, premises liability laws in Oregon—where this particular case took place—require ample demonstration of four key components for a claim to be substantiated:

1. The presence of a hazardous condition on-site
2. Evidence that the owner or occupier of the property knew of or should have identified the condition
3. A failure to correct the condition or warn visitors about it
4. Third-party damages that result from the condition

When the owner or occupier of a property uses warnings to identify a hazardous condition—as Topgolf intended to do with the red safety line and recurring audio announcements—and those warnings are challenged in court, Oregon law instructs juries to review whether the warnings clearly describe the hazardous condition and explain the risk it poses. In this nuclear verdict, the jury determined that Topgolf's existing warnings, coupled with the lack of a required venue tour and safety briefing, were not clear enough to highlight the severity of the risk associated with standing near swinging golf clubs.

Oregon law also imposes a statute of limitations on premises liability allegations, requiring individuals to file these claims within a set amount of time in order for them to be valid. The statute of limitations begins as soon as an impacted individual determines or reasonably deduces that a hazardous property condition caused them harm. This is often at the same time that the premises-related injury or other damage took place, but may occur at a later date if the loss is discovered afterward. From there, the consumer has two years to take legal action against the owner or occupier of the property.

RISK MITIGATION MEASURES



To avoid similar losses, businesses should follow these risk mitigation tactics:



Foster a culture of safety.

Businesses should instill a culture of safety among their employees by providing regular training on common premises liability hazards and associated prevention measures. Employees should understand their specific role in maintaining a safe environment for visitors and preventing potential injuries. Furthermore, employees should be encouraged to speak up if they notice any dangerous conditions or unaddressed hazards on-site, enabling quick remediation. In addition to staff training, businesses should conduct routine safety inspections and maintenance at their properties to ensure hazardous conditions remain under control. In some cases, businesses may also benefit from implementing additional safeguards, such as warning signage, alarm systems, supervisory oversight and physical barriers, in high-risk areas.



Maintain sufficient surveillance and documentation.

By leveraging advanced surveillance systems to consistently monitor property conditions, clearly documenting premises liability prevention strategies and creating in-depth response plans for different scenarios, businesses can demonstrate systemic hazard management and better defend against unsubstantiated claims, especially those alleging negligence or failure to correct or warn.



Ensure compliance.

Workplace policies should be regularly assessed to maintain compliance with premises liability laws and safety standards, as well as any other applicable federal, state and local regulations. Businesses can work with legal counsel for additional compliance assistance.



Secure proper coverage.

In this increasingly litigious environment, businesses need to have a robust liability insurance portfolio. This may include carefully evaluating general liability limits, umbrella and excess liability structures, and attachment points in light of rising nuclear verdict trends. It's best to consult insurance professionals to discuss specific liability coverage needs.

For additional risk management guidance and insurance solutions, contact us today.