



GTCA Claims

VS.

D&O, EPL & ELL Claims



GTCA Claims vs. D&O, EPL & ELL Claims

- RETENTIONS

- Tort: No retention or deductible. Risk Management pays from \$1 on covered claims up to statutory limit (usually \$175,000, see *51 O.S. Supp. 2006, Section 154*)



GTCA Claims vs. D&O, EPL & ELL Claims

- D&O, EPL & ELL Retention: Depends on policy year when claim was made
 - 7/15/96 to 7/15/97 \$100,000
 - 7/15/97 to 7/15/98 \$50,000
 - 7/15/98 to 7/15/99 \$50,000
 - 7/15/99 to 7/15/00 \$50,000
 - 7/15/00 to 10/15/01 \$50,000



GTCA Claims vs. D&O, EPL & ELL Claims

- D&O, EPL & ELL Retention: Depends on policy year when claim was made
 - 10/15/01 to 10/15/02 \$150,000
 - 10/15/02 to 10/15/03 \$150,000
 - 10/15/03 to 10/30/04 \$500,000 *
 - 10/30/04 to 10/30/05 \$500,000 *
 - 10/30/05 to 10/30/06 \$500,000 *
 - 10/30/06 to 10/30/07 \$500,000 *



GTCA Claims vs. D&O, EPL & ELL Claims

- D&O, EPL & ELL Retention: Depends on policy year
 - \$500,000 retention beginning in policy year 10/15/03 is **not** the sole responsibility of the agency. For covered losses:
 - Agency pays first \$150,000
 - Risk Management pays from \$150,001 to \$500,000 (net of \$350,000)
 - Insurance company pays from \$500,001 not to exceed policy limits



GTCA Claims vs. D&O, EPL & ELL Claims

- Tort – Reporting requirements are governed by the provisions of the GTCA

51 O.S. 2001, Section 156

- Within 1 year of date of loss, claim must be presented to State Risk Management or other appropriate entity
- See Section 156 for specific information re: wrongful imprisonment, incapacitation, claims against resident physicians or interns



GTCA Claims vs. D&O, EPL & ELL Claims

- **Tort: The GTCA is the exclusive remedy against a governmental agency or political subdivision and dictates the manner by which recovery may be made against the State for tortious conduct of state employees.**



GTCA Claims vs. D&O, EPL & ELL Claims

- Why should you care about the difference between tort and D&O, EPL & ELL?
 - You cannot settle a D&O claim and then notify Risk Management that you want Risk to kick in some money to cover all or part of your retention.



GTCA Claims vs. D&O, EPL & ELL Claims

- Why should you care about the difference between tort and D&O, EPL & ELL?
 - Before a claim can be paid out of the Tort fund, a claim must be made pursuant to the terms of the GTCA (filed within 1 year of date of loss, suit filed within 180 days after claim is denied by Risk Management, no exclusions apply, etc.)



GTCA Claims vs. D&O, EPL & ELL Claims

- Why should you care about the difference between tort and D&O, EPL & ELL?
 - You cannot avoid paying your \$150,000 retention on a D&O claim even if Risk Management pays \$175,000 from the Tort Fund.



GTCA Claims vs. D&O, EPL & ELL Claims

- Why should you care about the difference between tort and D&O, EPL & ELL?
 - If you are seeking indemnification under the GTCA for a state employee held liable for violation of someone's constitutional rights, you must comply with the requirements of Section 162 of Title 51 of the Oklahoma Statutes.