

Confronting Social Inflation: A Discussion of Nuclear Verdicts, Litigation Funding and Spiking Loss Severity Trends

WSIA Webinar Series | 2022



One definition:

“Social Inflation”

- Larger jury verdicts
- Changing judicial decisions
- Greater propensity to sue

Trends in Jury Awards

Societal trends may reportedly affect how juries decide.

- For example, a 2019 Law.com [article](#) discusses, in part, how a jury's attitude towards large corporations may be the reason for the increase in awards in civil cases against corporations. Per the article, it may be that "jurors are increasingly familiar with corporate wrongdoing. When it comes to punitive damages, the idea is to punish a corporation and deter it from future wrongdoing..."
- A 2019 [article](#) in the *Financial Times* reported the "median cost of the top 50 [single plaintiff] bodily injury [verdicts] in the US rose from around \$28m in 2014 to just over \$54m [in 2018]."

Growing distrust in large corporations

Use of So – called "Reptile Theory" By Plaintiff's Counsel

<https://www.law.com/2019/10/17/jurors-want-to-punish-why-a-jury-verdict-goes-nuclear/>

<https://www.ft.com/content/5fb9aef8-07fb-11ea-a984-fbbacad9e7dd>

"The Age of Reptiles" <https://www.lexology.com/library/detail.aspx?g=b640404b-c8b7-4ef8-852e-9c693ec70431>



Hypothesized Causes for Changing Loss Experience

- **“Social Inflation”**
- **Inflation**
 - Medical costs
 - Legal costs
- **Evolving Loss Types**
 - Traumatic brain injuries
- **State Specific Environment**
 - Tort reform
- **Litigation Funding/Greater Use of Analytics by Plaintiffs**



State Specific Environment

Erosion of
Some Tort
Reform in
Some States

- State court decisions strike down, in part, **noneconomic damage caps** (e.g. pain and suffering) for medical malpractice cases in some states, for example:*

- Georgia (2010), Florida (2017)

Assignment
of Benefits

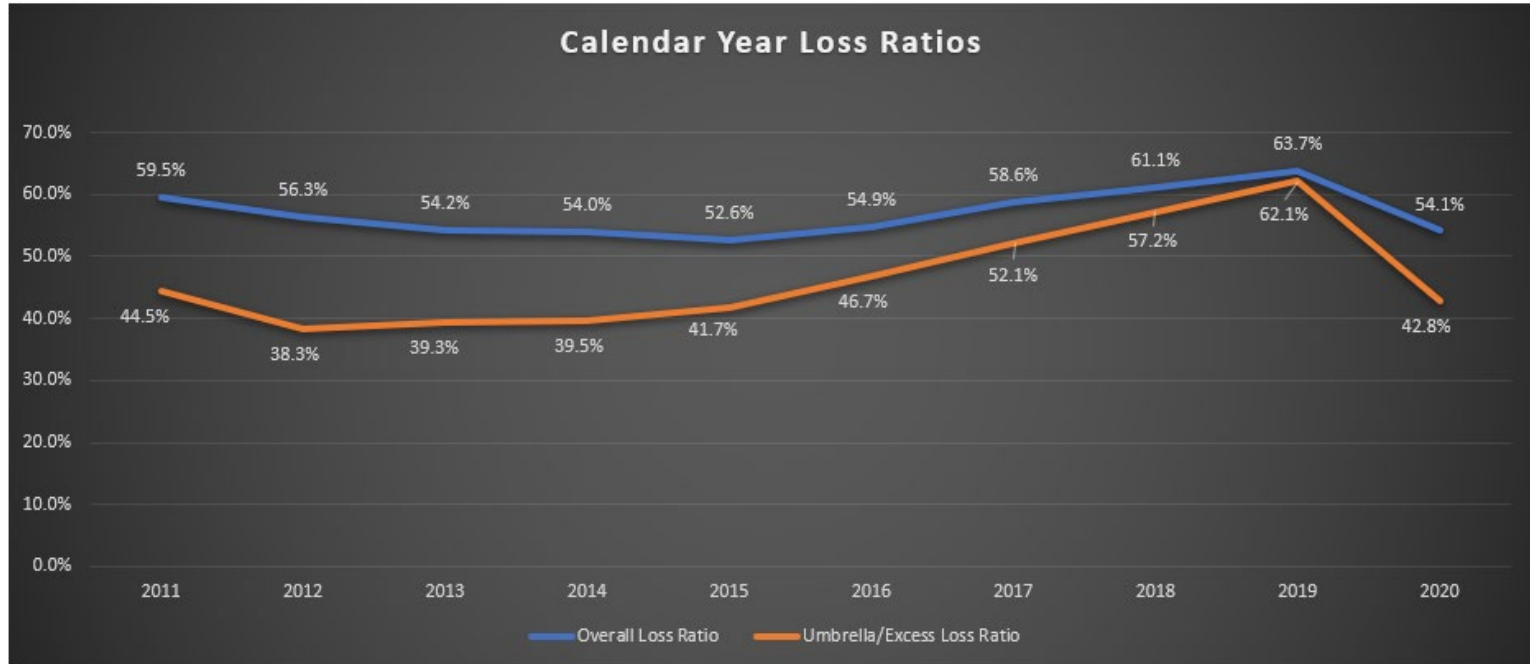
- State court decisions strike down, in part, **punitive damages reforms** in some states, for example: **

- Georgia (1990), Virginia (1992), Oregon (1998), Utah (2005), Missouri (2014)

* <https://www.law.com/dailyreportonline/2020/05/11/tort-reform-capping-nuclear-insurance-verdicts-stymied-by-covid-19/>

** <https://www.atra.org/issue/punitive-damages/>

General Liability Overall vs. Commercial Umbrella/Excess



Bulk reserves are not included, and a consistent number of accident years are included in each calendar year. This includes Premises/Operations, Products/Completed Operations, Composite Rated Risks, and Commercial Umbrella/Excess.

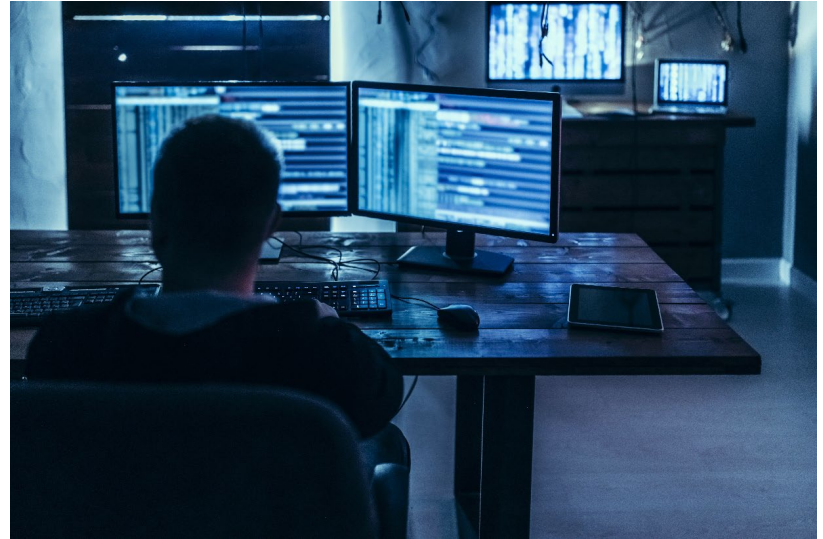
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Inflation

- **Higher Inflation**
- **Severity Trend vs. General Inflation**
- **Supply Chain**
 - COVID-19
 - Weather
 - Geopolitical relations



Uncertain Future

- **COVID-19**
 - Court System
 - Recession
 - Claim Settlement Patterns
- **Societal division**
- **Statute of limitations**



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