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*Nuclear and Thermonuclear Verdicts:
What is Driving These Verdicts and
What Can We Do About It?*

Forward Looking Statements

This presentation contains Forward Looking Statements and other information designed to convey our projections and expectations regarding future results.

There are a number of factors which could cause our actual results to vary materially from those projected in this presentation. The principal risk factors that may cause these differences are described in various documents we file with the Securities and Exchange Commission, such as our Current Reports on Form 8-K, and our regular reports on Forms 10-Q and 10-K, particularly in "Item 1A, Risk Factors." Please review this presentation in conjunction with a thorough reading and understanding of these risk factors.

Non-GAAP Measures

This presentation contains Non-GAAP measures, and we may reference Non-GAAP measures in our remarks and discussions with investors.

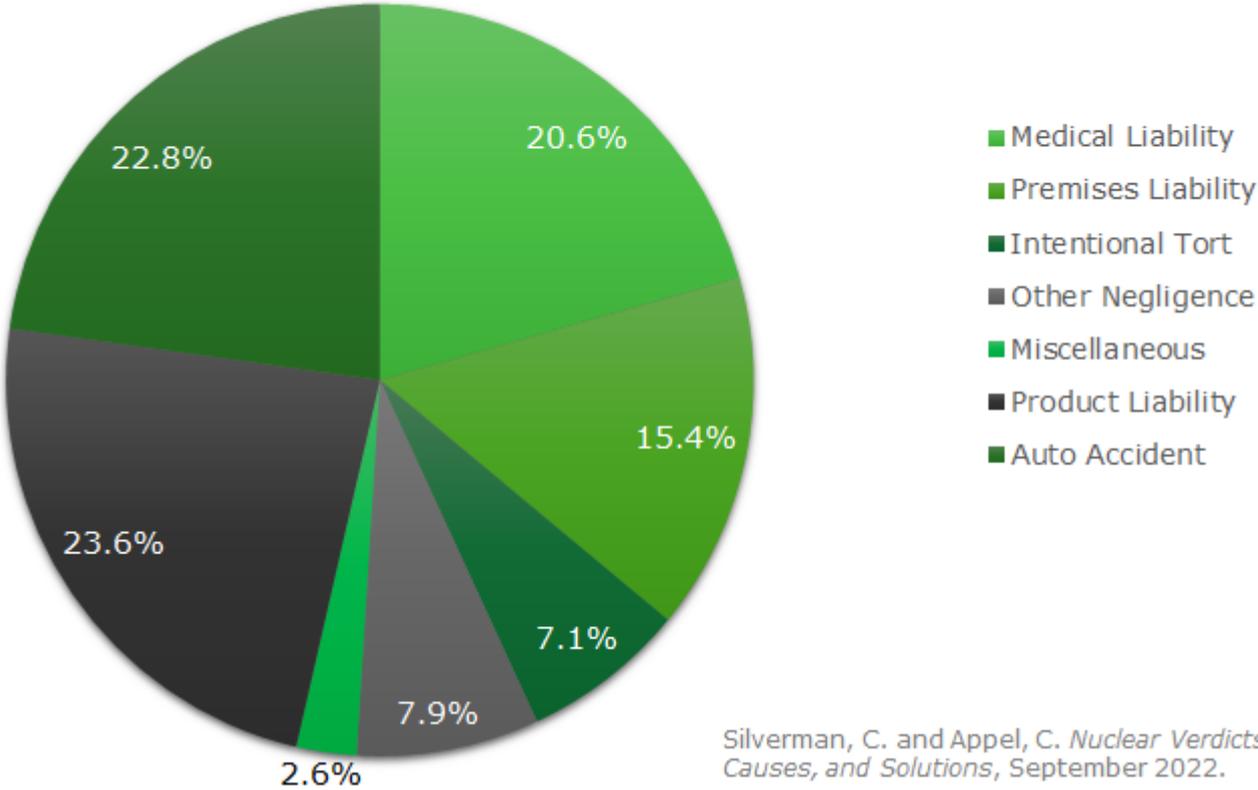
The primary Non-GAAP measure we reference is Non-GAAP operating income, a Non-GAAP financial measure that is widely used to evaluate performance within the insurance sector. In calculating Non-GAAP operating income, we have excluded the after-tax effects of net realized investment gains or losses and guaranty fund assessments or recoupments that do not reflect normal operating results. We believe Non-GAAP operating income presents a useful view of the performance of our insurance operations, but should be considered in conjunction with net income computed in accordance with GAAP. A reconciliation of these measures to GAAP measures is available in our regular reports on Forms 10-Q and 10-K and in our latest quarterly news release, all of which are available in the Investor Relations section of our website, Investor.ProAssurance.com.

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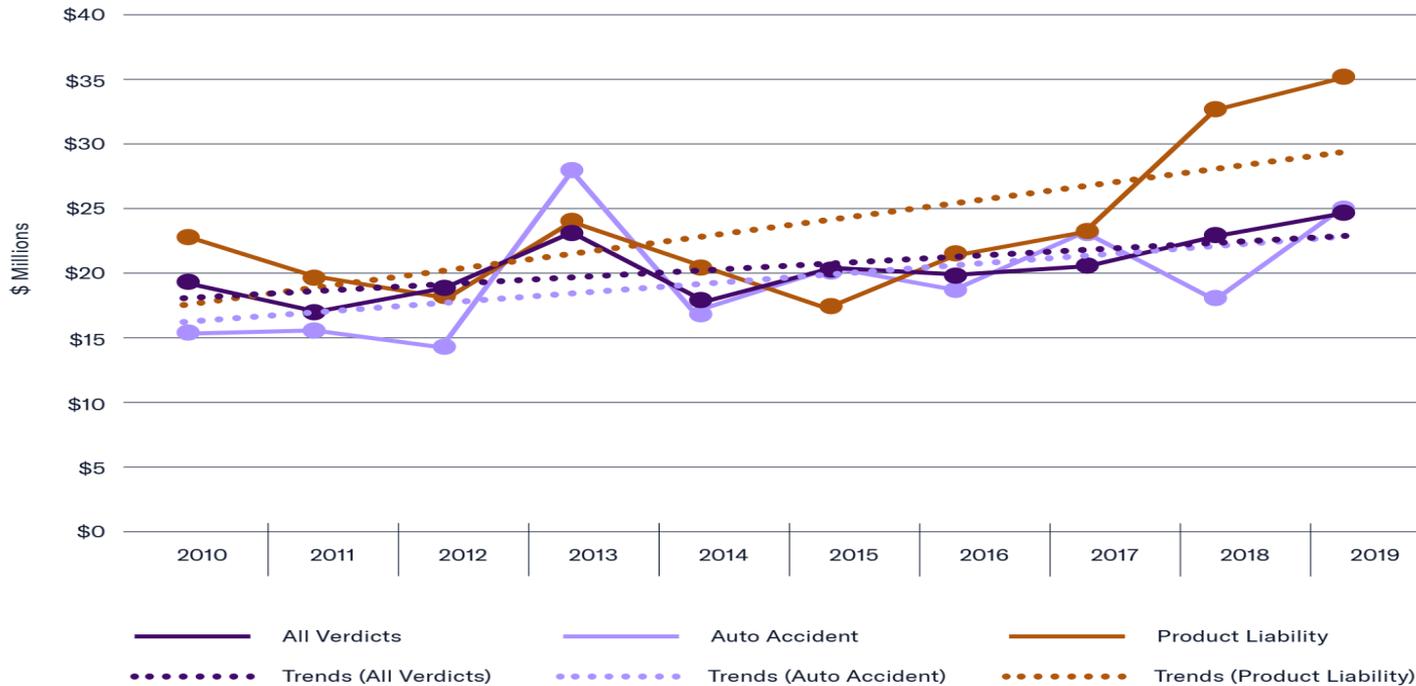
Nuclear Verdicts: The Data

Nuclear Verdicts By Case Type (2010-2019)



Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

Median Nuclear Verdict & Trend Line (2010–2019)



Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

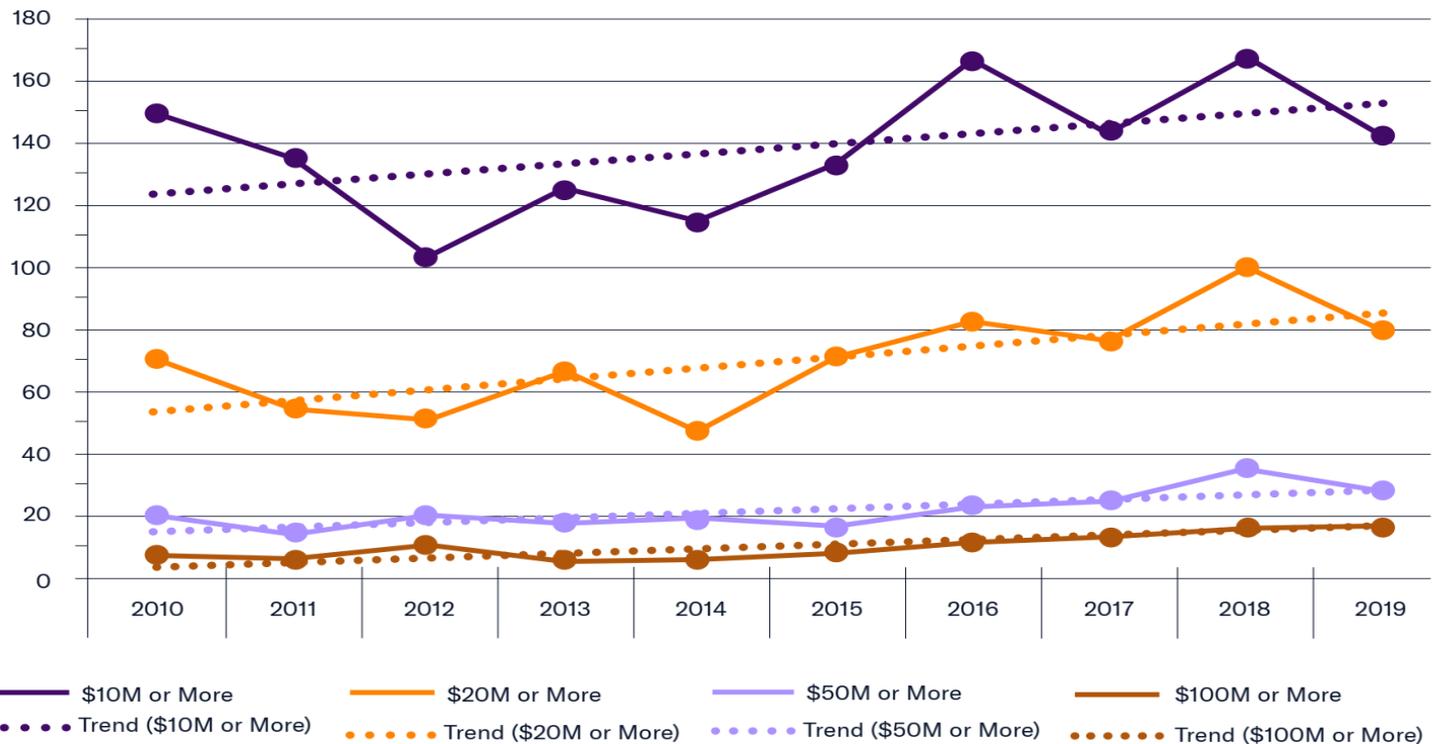
Mean Nuclear Verdict by Litigation Type (2010–2019)



Litigation Type	Mean Nuclear Verdict
Product Liability	\$191.6 Million
Intentional Tort	\$90.6 Million
Other Negligence	\$40.8 Million
Medical Liability	\$36.8 Million
Auto Accident	\$33.8 Million
Premises Liability	\$31.7 Million
Miscellaneous	\$28.4 Million
All Personal Injury/ Wrongful Death	\$76 Million

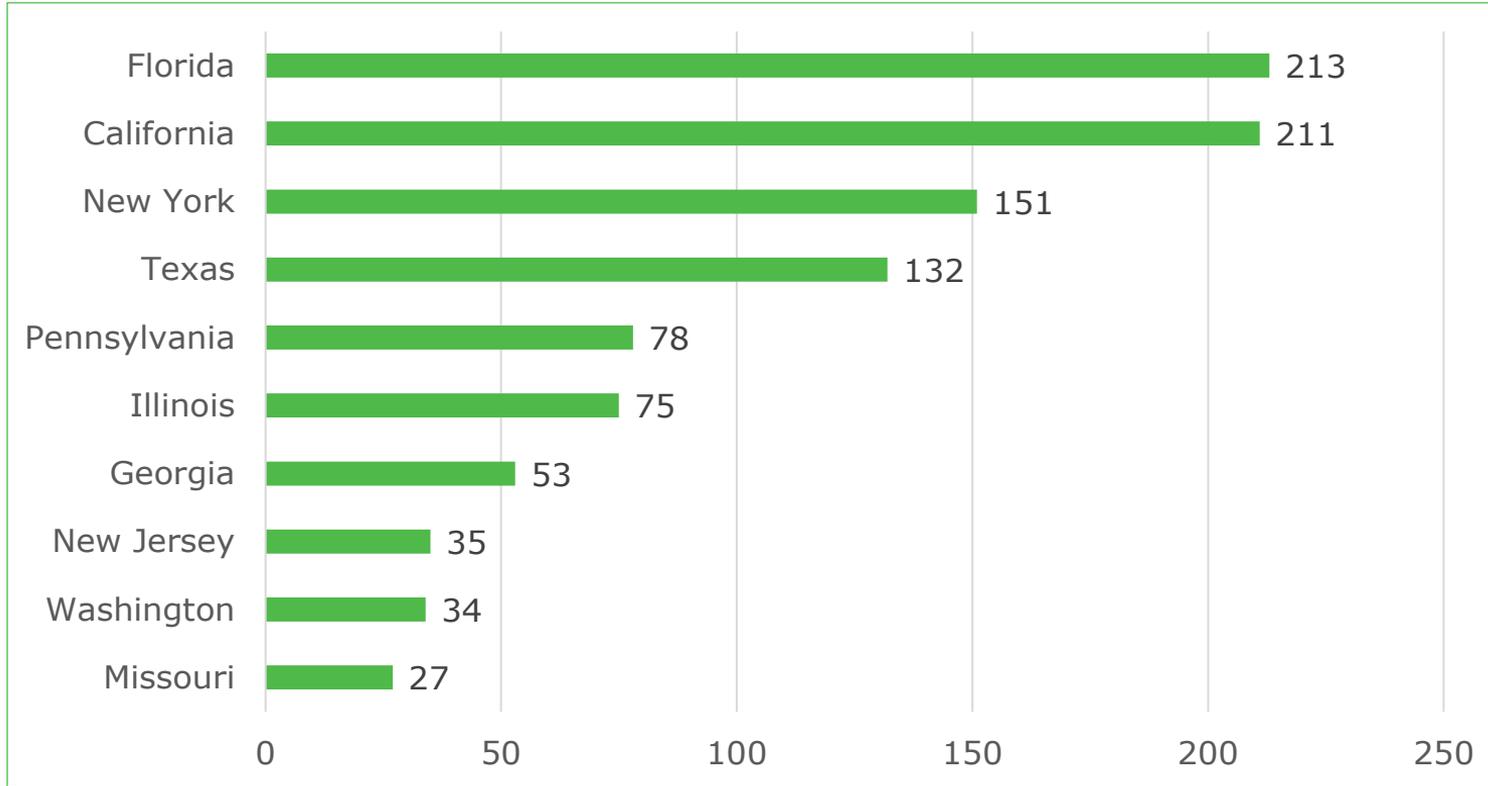
Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

Number of Reported Nuclear Verdicts (2010–2019)



Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

Top 10 States By Cumulative Nuclear Verdicts (2010–2019)



Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

Top 10 States Per Capita Nuclear Verdicts (2010–2019)



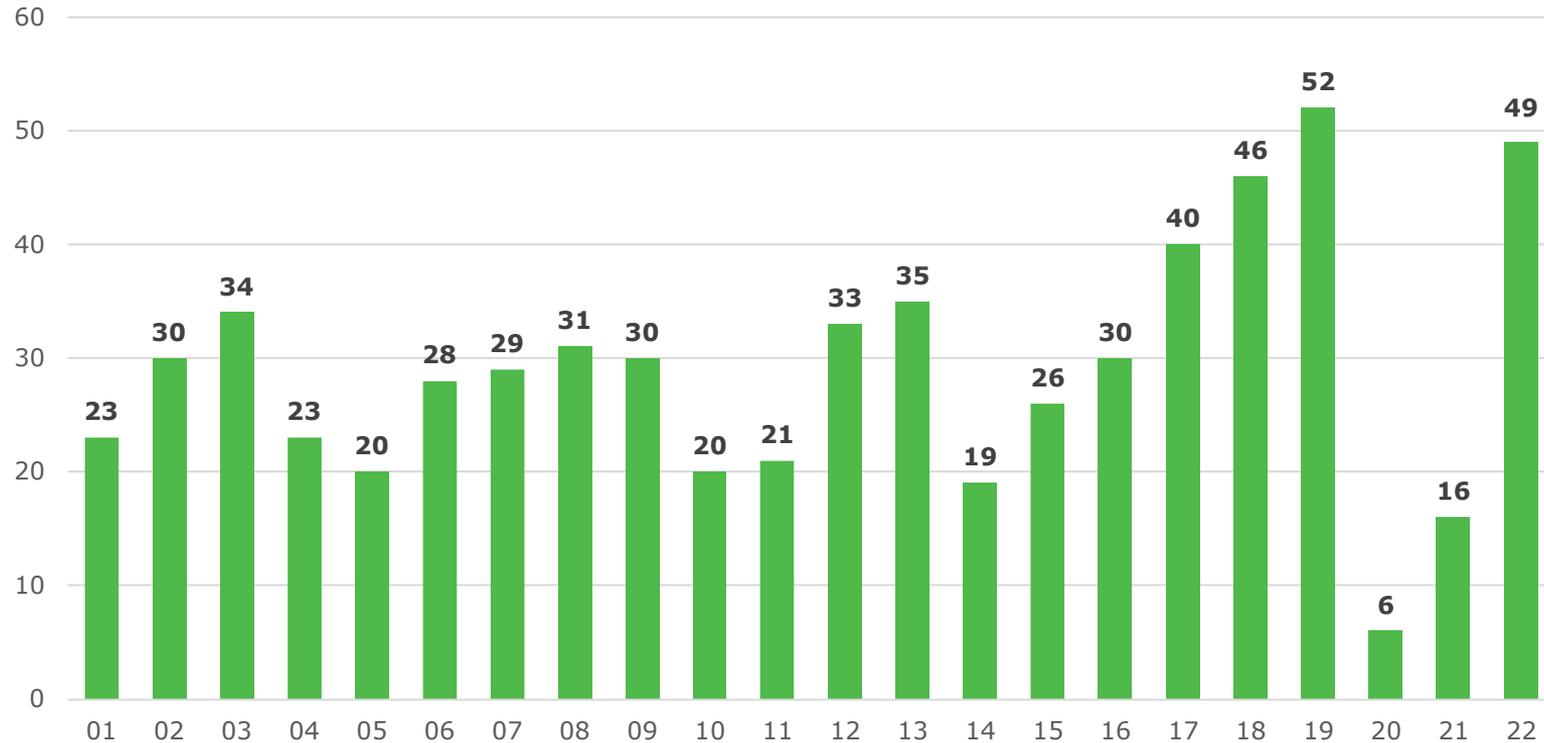
State	Per Capita Rank	Cumulative Rank	Average State Population	Nuclear Verdicts per 100K People
Florida	1	1	20,109,631	1.059
New York	2	3	19,560,913	0.772
Pennsylvania	3	5	12,774,637	0.611
Illinois	4	6	12,822,325	0.585
California	5	2	38,618,190	0.546
Alabama	6	-	4,845,320	0.537
New Mexico	7	-	2,087,643	0.527
Georgia	8	7	10,147,472	0.522
Wyoming	9	-	577,786	0.519
Texas	10	4	27,172,097	0.486

Silverman, C. and Appel, C. *Nuclear Verdicts - Trends, Causes, and Solutions*, September 2022.

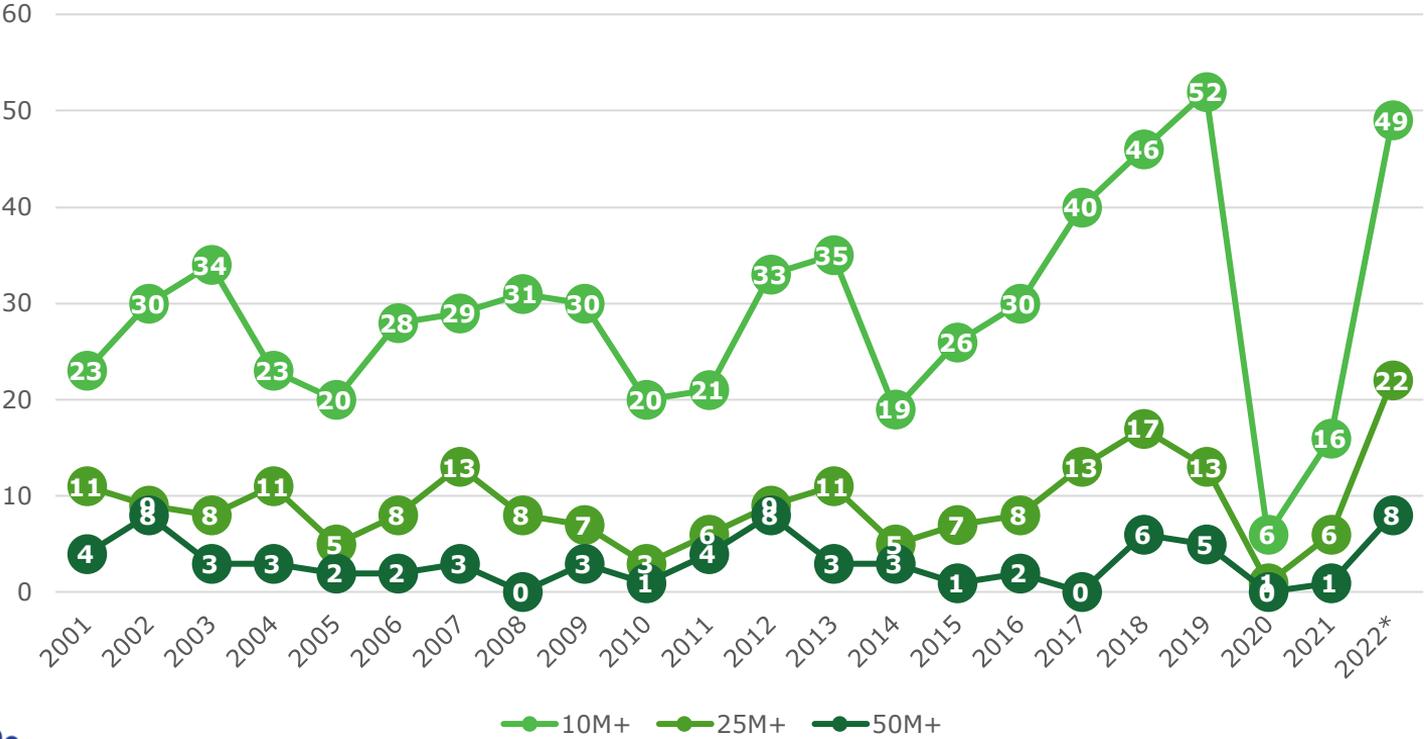
From 2020-Present

- 2020 was the “Year of Covid.” Nuclear verdicts stalled
- From the end of 2020 to 2022, nuclear verdicts quadrupled from \$4.9B to \$18.3B in 2022
- Median verdicts also rose from \$21.5B in 2020 to \$41.1B in 2022—a 95% increase
- Verdicts doubled during these two years
- Overall, there were 882 nuclear verdicts from 2009-2022 with at least one corporate defendant. Juries ordered 712 companies across 117 industries to pay a total of \$169B

MPL Large Verdicts (above \$10M)



MPL Large Verdicts (\$10M, \$25M, \$50M)

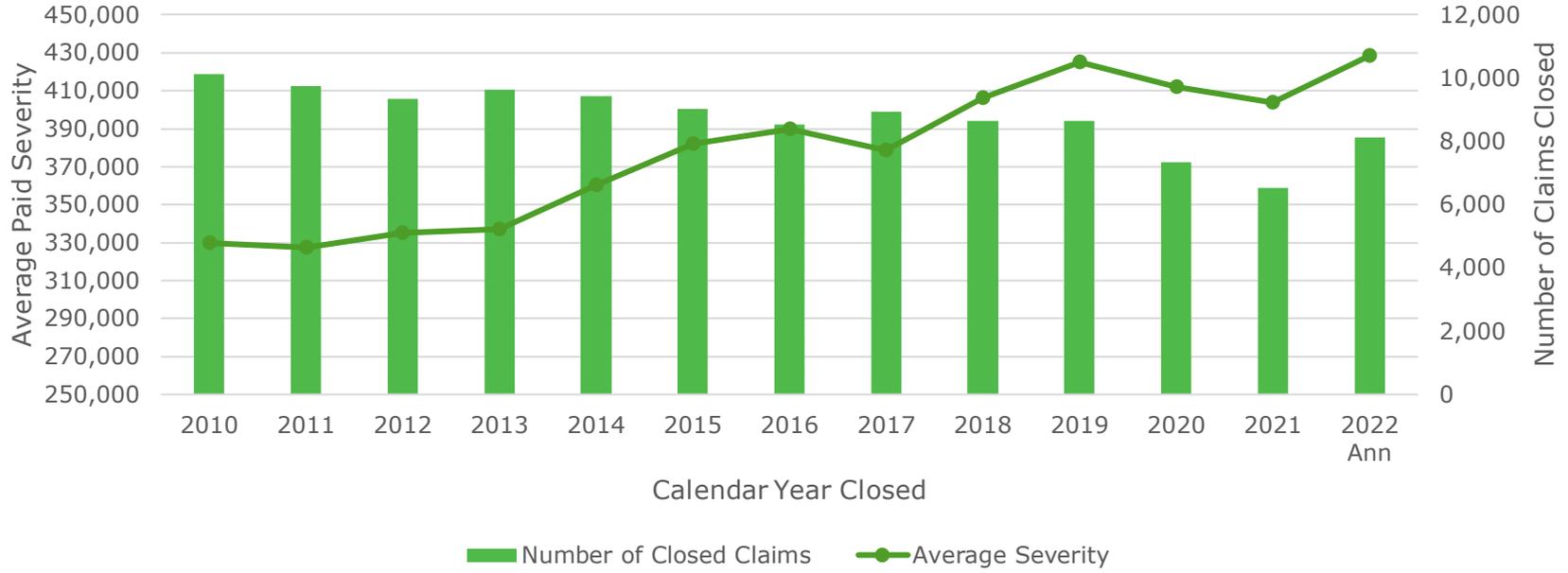


*As of 1/1/2023

Industry Severity: After a Pause Due to COVID Frequency is Normalizing and Severity is Increasing



NPBD Claims & Severity



*As of 1/1/2023

Proprietary and Confidential

2023 Trends and Developments

- ▶ Nuclear verdicts continued unabated in 2023
- ▶ Two concerning trends:
 - ▶ Nuclear verdicts aren't just happening in judicial hellholes anymore, but also in more traditionally conservative jurisdictions like Iowa and Montana
 - ▶ Nuclear verdicts are now being seen in employment cases and other non-traditional case types
- ▶ Torts still typically result in the largest verdicts:
 - ▶ \$745M verdict in Missouri in auto accident case where driver high on nitrous oxide from canisters. Distributor of canisters were found 70% liable
 - ▶ \$787.2M talc verdict in New Jersey

See Robert F. Tyson Jr., *Nuclear Verdicts: Year-end trends and looking forward*, December 8, 2023, The Daily Journal, California Lawyer (last visited March 19, 2024); Erin Heffernan, *How a crash and Whip-It! Turned into a \$745 million verdict for a St. Louis County family*, September 24, 2023, available at https://www.stitoday.com/news/local/metro/how-a-crash-and-whip-it-turned-into-a-745-million-verdict-for-a-st/article_2952125c-5382-11ee-924f-638bc70d57bc.html (last visited 3/25/2024).



Nuclear Verdicts: What's Causing Them?

Factors Contributing to Social Inflation

- ▶ What are the factors driving huge jury verdicts?
 - ▶ Juror perception:
 - All products must be 100% safe
 - All products must be safe from misuse
 - ▶ Public distrust of corporations
 - ▶ Presence of millennials and Gen Z jurors
 - ▶ Media outlets and social media's impact on public opinion
 - ▶ Perception of value of money has changed

Factors Contributing to Social Inflation

➤ Most significant factor:



Juror Attitudes



Poll Question

- ▶ Which of these is the best predictor of who will be a plaintiff's juror:
 - ▶ Political affiliation?
 - ▶ Belief in conspiracy theories?
 - ▶ Demographics?

Conspiracy Theories

- ▶ Scenario: plaintiff says migraine medication caused cancer
 - ▶ 258 eligible jurors surveyed online
 - ▶ Biggest predictors of juror behavior:
 - #1—Belief in conspiracy theories (Plaintiff)
 - #2—Extreme sympathy and need to help plaintiff regardless of evidence (Plaintiff)
 - #3—Cognitive reflection, which is ability to override emotion with rational thought (Defendant)

Nick Polavin, PhD, *Who Needs Evidence? The Rise of Conspiracy-Minded Jurors*, IMS Consulting & Expert Services, <https://www.expertservices.com/insight/evidence-conspiracy-jurors/> (last visited 3/25/2024).



Poll Question

▶ Most jurors believe that a product should be 100% safe if it's on the market:

- ▶ Yes
- ▶ No

Safety-ism Jurors

- ▶ Per jurors, products can't be safe enough:
 - ▶ **Most** respondents said that “companies should take every possible measure to ensure their products are 100% safe”
 - ▶ Companies should warn about every possible risk or side effect, regardless of size
- ▶ Even potential risks are too much:
 - ▶ **Majority** said they'd stop using a product if it could possibly cause cancer. Some had already done this



Dr. Jill Leibold, Dr. Nick Polavin, Christopher Burrichter, Mary Kim, and Allie Ozurovich, *Safety-ism and Conspiracies are Affecting Juries*, In-House Defense Quarterly Summer 2023, pp. 17-21.

Safety-ism Juror Characteristics

- ▶ Characteristics:
 - ▶ Total avoidance of risk or harm
 - ▶ Emotional reasoning trumps logic or science
 - ▶ Have a good v. evil mindset/tribal mindset
- ▶ Indicators of safety-ism juror:
 - ▶ Higher education
 - ▶ Urban resident
 - ▶ Strong Democrats

Dr. Jill Leibold, Dr. Nick Polavin, Christopher Burrichter, Mary Kim, and Allie Ozurovich, *Safety-ism and Conspiracies are Affecting Juries*, In-House Defense Quarterly Summer 2023, pp. 17-21.



Safety-ism Juror Characteristics, con't

- ▶ Indicators of safety-ism juror, con't:
 - ▶ Gets news through electronic means
 - ▶ Strong belief in scientific conclusions not sponsored by corporation
 - ▶ Received COVID vaccine and plan or did get booster

Factors Contributing to Social Inflation

- ▶ Erosion of tort reform and caps on punitive damages
- ▶ Attorney advertising and marketing
- ▶ Third party litigation funding
- ▶ Use of reptile theory
- ▶ Anchoring
- ▶ Exaggerated economic damages claims
 - ▶ Future medical care
 - ▶ Life care plans

Third Party Litigation Funding (TPLF)

- ▶ What is it?
- ▶ Benefits—increased access to the courts
- ▶ Generally, three types of funding arrangements:
 - ▶ Nonrecourse loans made directly to plaintiffs
 - ▶ Loans to lawyers or a law firm
 - ▶ Funding of complex or commercial claim
- ▶ Most attractive cases for TPLF:
 - ▶ Antitrust/Price Fixing
 - ▶ Patent litigation



Third Party Litigation Funding (TPLF)

- ▶ Why is TPLF such a problem?:
 - ▶ Class actions and MDL proceedings
 - ▶ Aggregation of plaintiffs
- ▶ Curbing TPLF:
 - ▶ Registration of TPLF in that state
 - ▶ Disclosure of TPLF in discovery
- ▶ 2023 Litigation Finance Survey Report



Anchoring- To Anchor or Not to Anchor?

- ▶ What is anchoring?
 - ▶ Highly effective and widely used
 - ▶ Part of the Reptile Playbook
- ▶ How should the defense respond?
 - ▶ Not respond with a dollar figure
 - ▶ Respond with a dollar figure that the defense can live with
- ▶ Certain states are starting to address anchoring





Potential Responses by the Defendants

Preventing Nuclear Verdicts Inside the Courtroom

- Attack reptile theory
- Anchoring
- Accept responsibility for something
- Attack on economic damages
- Argue against plaintiff's numbers for pain and suffering
- Staging mock trials to test defense themes
- Using experts to select juries

Attacking Economic Damages Calculations

- Prepare each case as if it will be tried
- Attack inconsistencies and collateral sources baked into the assumptions
- Challenge traditional present value calculations by plaintiff's economist by working with investment professionals
- Be willing to discuss the value of medical services without a direct attack

How Can You Help to Prevent Nuclear Verdicts?

- ▶ Understand that current anti-corporate beliefs mean you start from a negative position with many jurors;
- ▶ Meeting FDA, CPSC, industry standards is not enough
- ▶ Be prepared to defend your actions on all aspects of product design, manufacture, and warnings.
 - ▶ Was the issue considered? If so, what was done about it?
 - ▶ Document and be prepared to defend



How Can You Help Prevent Nuclear Verdicts? Con't

- ▶ Take adverse events and consumer complaints seriously.
 - ▶ Did you investigate? Were changes made?
 - ▶ Document and be prepared to defend
- ▶ Would you feel comfortable defending your company's actions on the stand at trial?

What Can Be Done Outside the Courtroom?

- ▶ Limit attorney advertising and require full disclosure
- ▶ Venue reform-measures to defeat litigation tourism
- ▶ Pursue limitations on non-economic and punitive damages awards
- ▶ Require disclosure of litigation funding
- ▶ Request bifurcation of compensatory and punitive damages claims

Reasons for Hope

- ▶ Amendments to Rule 702
- ▶ Proposed modifications to Rule 16.1
- ▶ Efforts to limit attorney advertising are gaining traction
- ▶ Tort reform successes:
 - ▶ *Florida*—Comprehensive tort reform—damages calculations, comparative fault, statute of limitations
 - ▶ *Montana*—Products liability reform!—comparative fault, new affirmative defenses, rebuttable presumption of non-liability, protection from suit for sellers who aren't manufacturers
 - ▶ *Indiana*—Third-party litigation funding reform (disclosure and other limitations)

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