



It's Not All Social Inflation - Is General Inflation Back for Real?

Social Inflation

Casualty Actuarial Society Annual Meeting
November 10, 2021

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One Definition of “Social Inflation”

“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 for example
- **Law Changes**
 - Tort Reform
- **Litigation Funding/Greater Use of Analytics by Plaintiffs**





State Regulatory Environments

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)
- 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)

States Following
Champertous
Doctrines May
Hinder Some
Litigation Funding
Arrangements

Some states that may follow champertous doctrines include: Alabama, Delaware, Georgia, Minnesota, Mississippi, New York and Pennsylvania ***

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

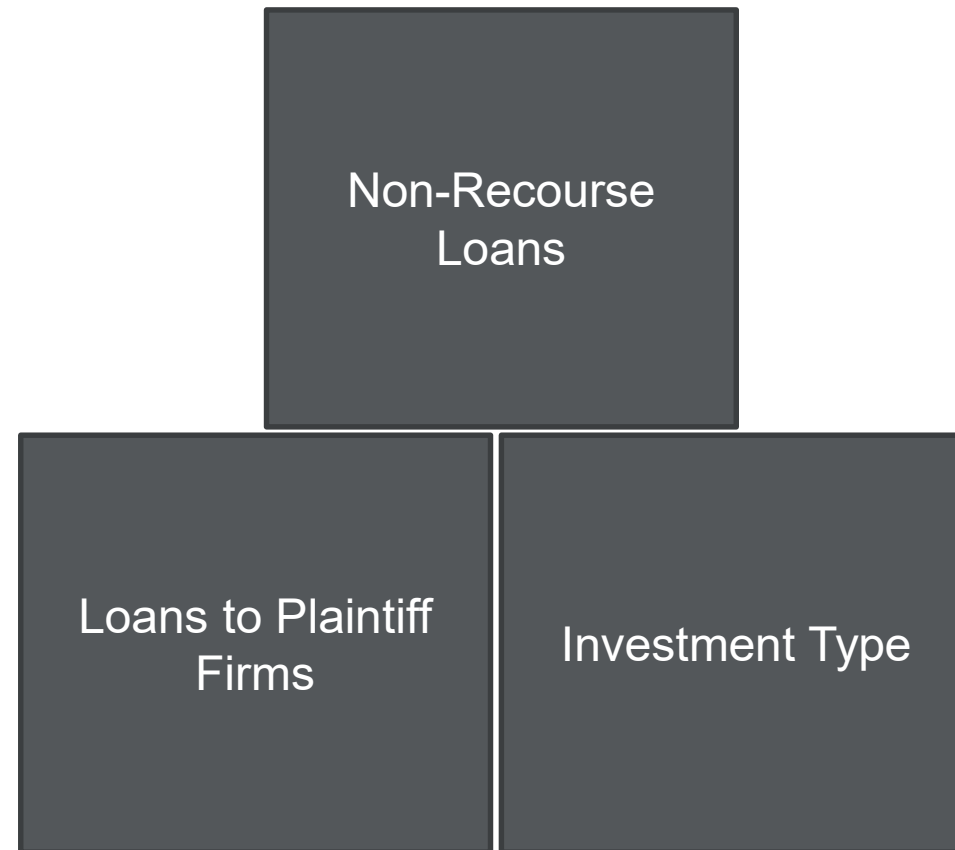
** <https://www.atra.org/issue/punitive-damages/>

*** <https://www.mondaq.com/unitedstates/patent/774162/a-strategic-look-at-champerty-and-third-party-litigation-financing?>



What is Litigation Financing?

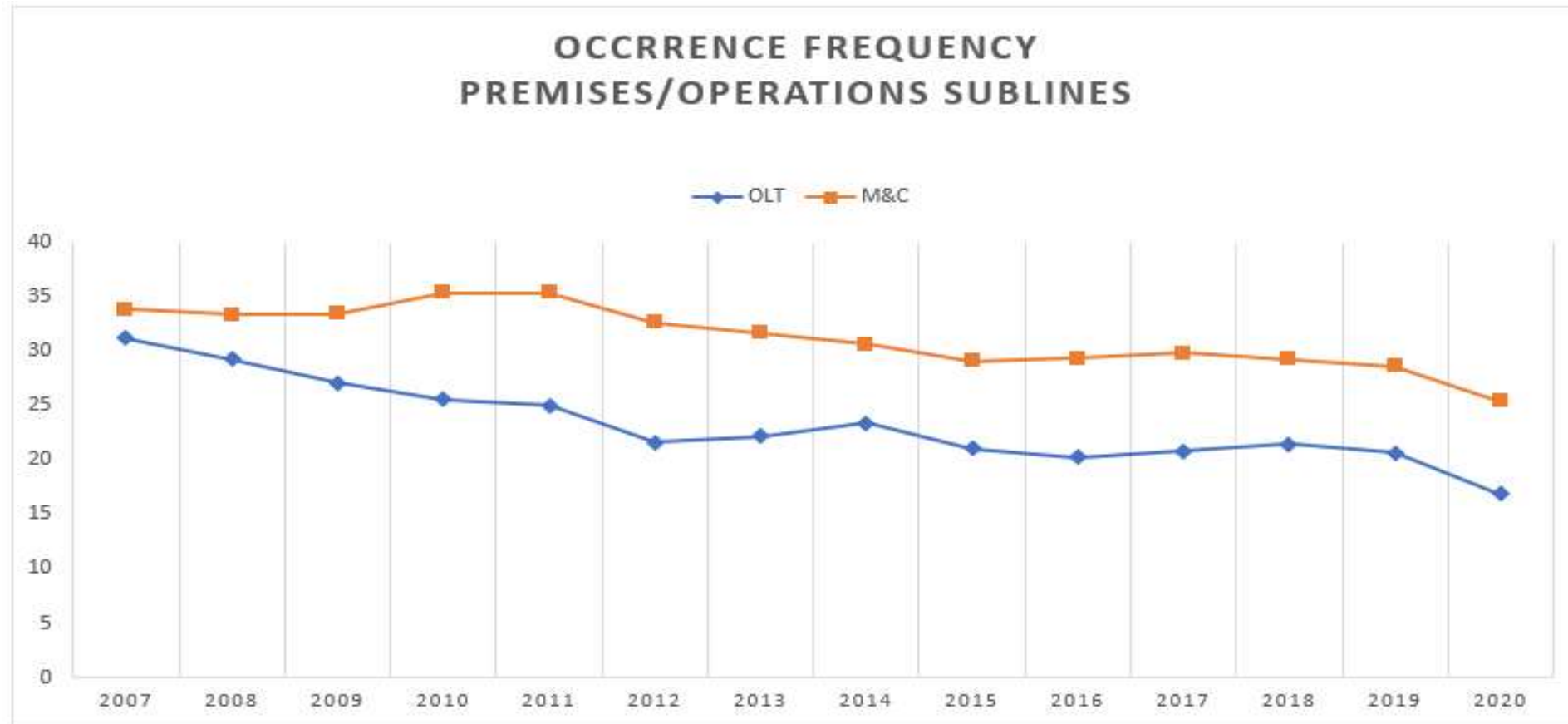
According to an American Bar Association guide, litigation financing generally means a transaction in which a third party who is not party to a legal claim chooses to provide capital to a party in a legal claim or its counsel in exchange for a financial interest in the outcome of the legal claim if it is successful.



https://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2015_spring_leadership_meeting/guide_to_litigation_financing_may_2014_charles_agee.authcheckdam.pdf



General Liability – Premises/Operations Accident Year Occ. Frequency



- Bodily Injury, Property Damage and Fringe Combined. (# of occurrences per \$1M of ALCCL)
- Evaluated as of 9/30/2020
- Latest Year – accident year ending 6/30/2020
- Source: ISO General Liability Experience Reviews – 2021 Groups 3 and 4



Annual Statement LOBs Including General Liability

- Commercial Multi-Peril Liability (052)
- Other Liability (170)
- Products Liability (180)



Types of Insurance included in Annual Statement LOB “Other Liability”

- Premises/Operations
- Liquor Liability
- Directors and Officers
- Cyber Liability
- Professional E&O
 - Excluding Medical Professional
- Commercial Umbrella/Excess (Including Commercial Auto)
- Personal Umbrella
- Personal Liability
- Plus More.....

Source: https://www.naic.org/documents/industry_pcm_p_c_2017.pdf



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.



Commercial Umbrella & Excess Liability – Attachment Point Distribution (PY)

POLICY COUNT DISTRIBUTION BY ATTACHMENT GROUP



Attachment Point Size Groups - High, Medium, and Low

High: Attachment Point > \$1.5M

Medium: \$500k < Attachment Point <=\$1.5M

Low: Attachment Point <= \$500k



Commercial Umbrella & Excess – Loss Development

- Calendar year perspective: **9** out of the last **10** years have developed adversely
- Accident year perspective: **7** out of the last **10** years have cumulatively developed adversely.

Source: Size of Loss Matrix 2021 V1.

20 year ex-ante analysis using 7-year loss weighted average for LDFs for Incurred Indemnity and ALAE (included)

Uncertain Future

- **COVID**
 - Court System
 - Recession
 - Claim Settlement Patterns
 - Impact on Insurance Experience
- **Societal Division**
- **Statue of Limitations**





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