



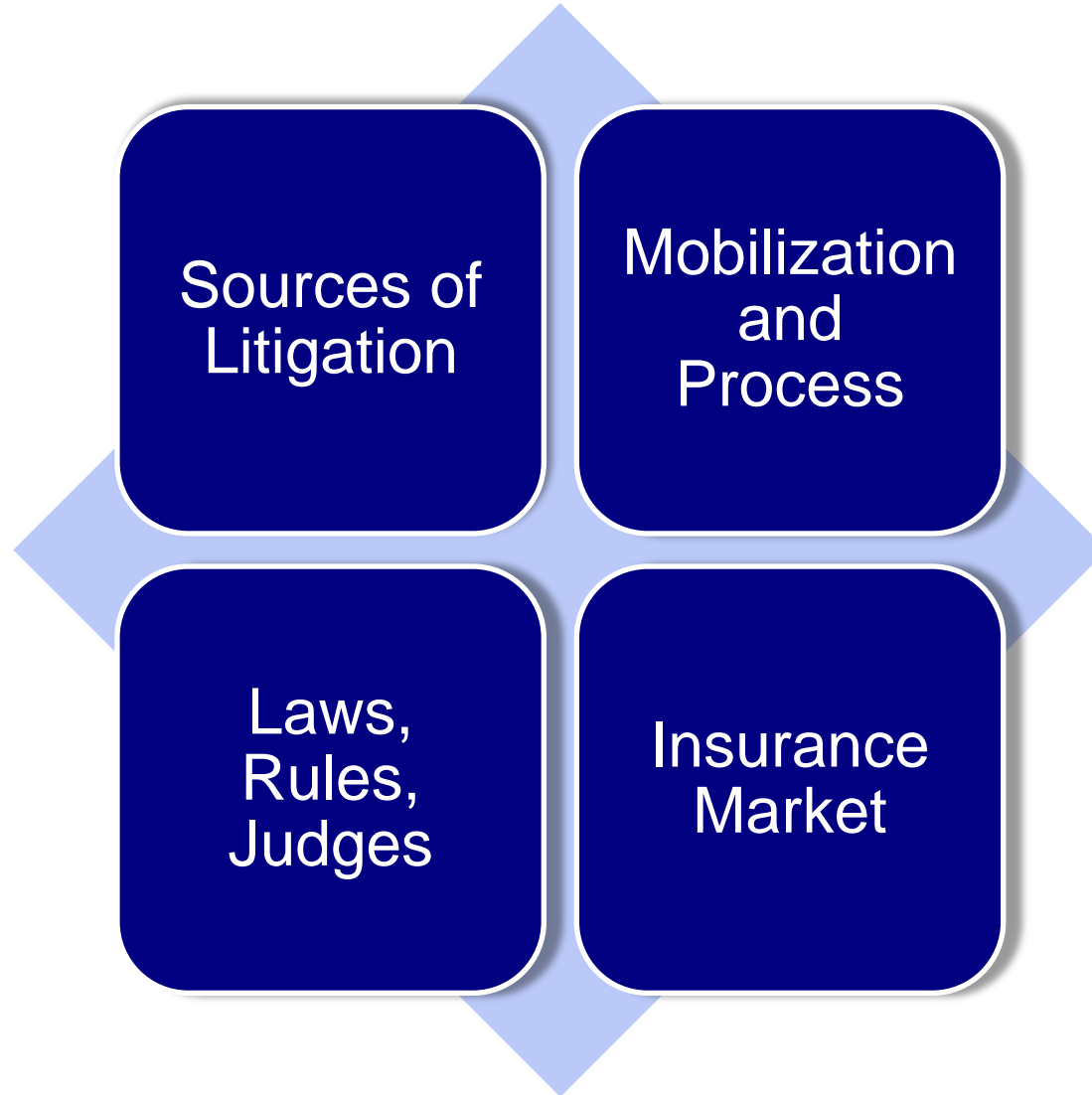
Tort Trends and Implications for Liability Insurers



Presented by
Jerry Theodorou,
Vice President, Conning

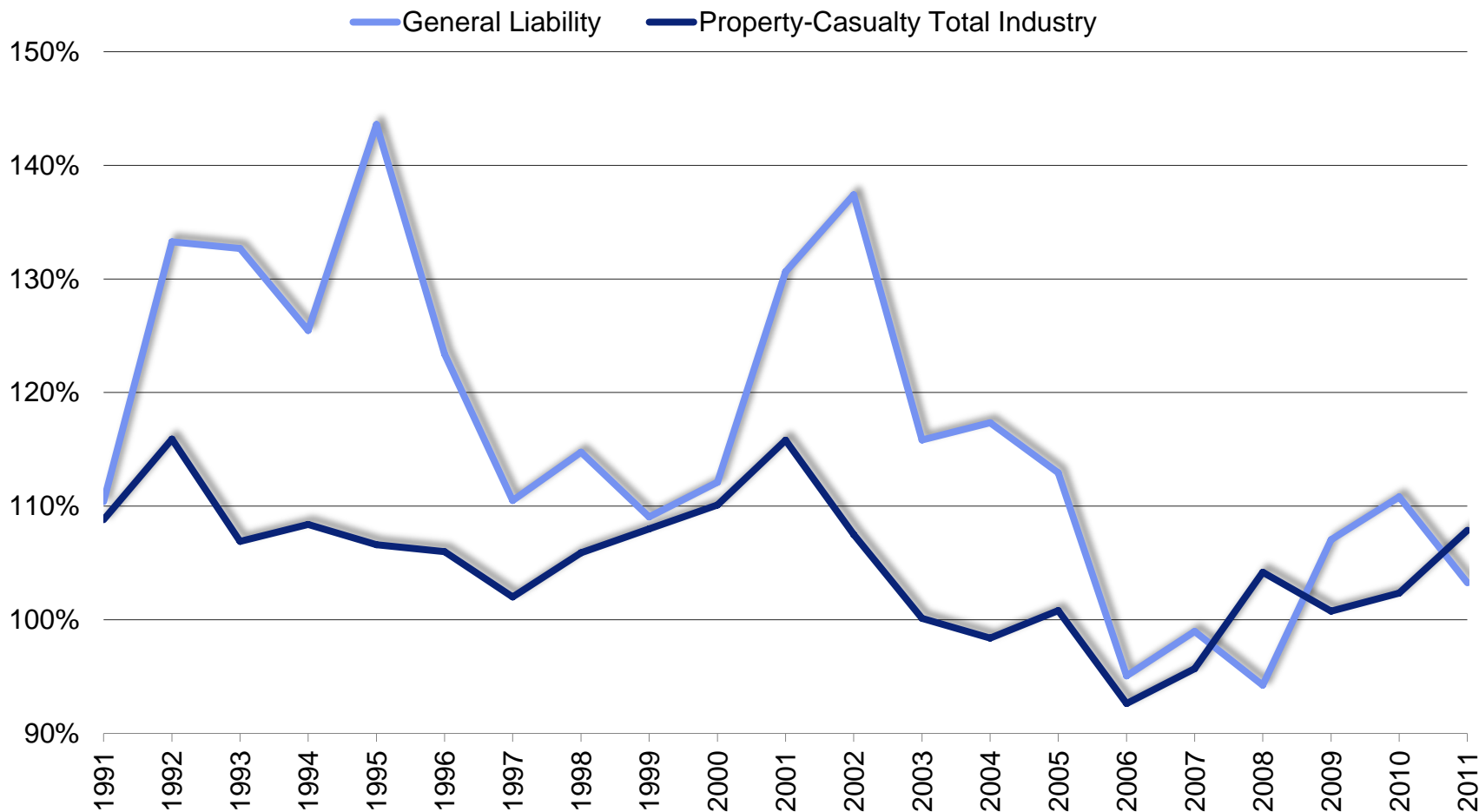
- **Diverse Drivers of Liability Insurance Results**
- **Liability Insurance Performance Review**
- **Tort Litigation Trends**
- **Geographical Variation in Liability Results**
- **Impact of Tort Reform and Legal Precedents**
- **Emerging Risks**

◀ Liability Insurance Shaped in Four Dimensions



With GL Results Getting Closer to P-C Performance

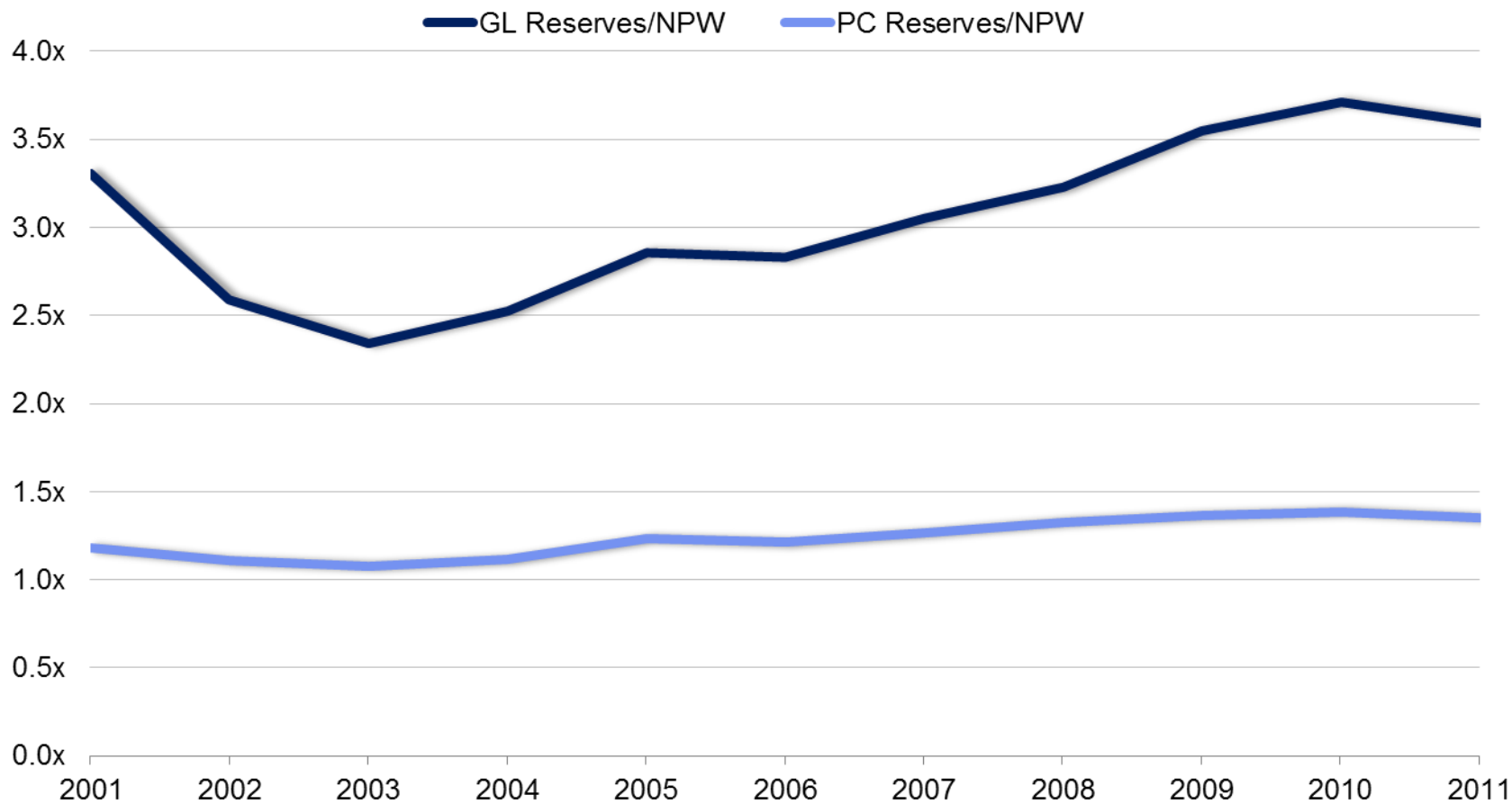
Calendar Year Combined Ratio, General Liability v. Total P-C Industry



Analysis: Conning Research & Consulting. Data: © A.M. Best Company—used by permission.

GL Reserve Growth Outpaces Premium Expansion

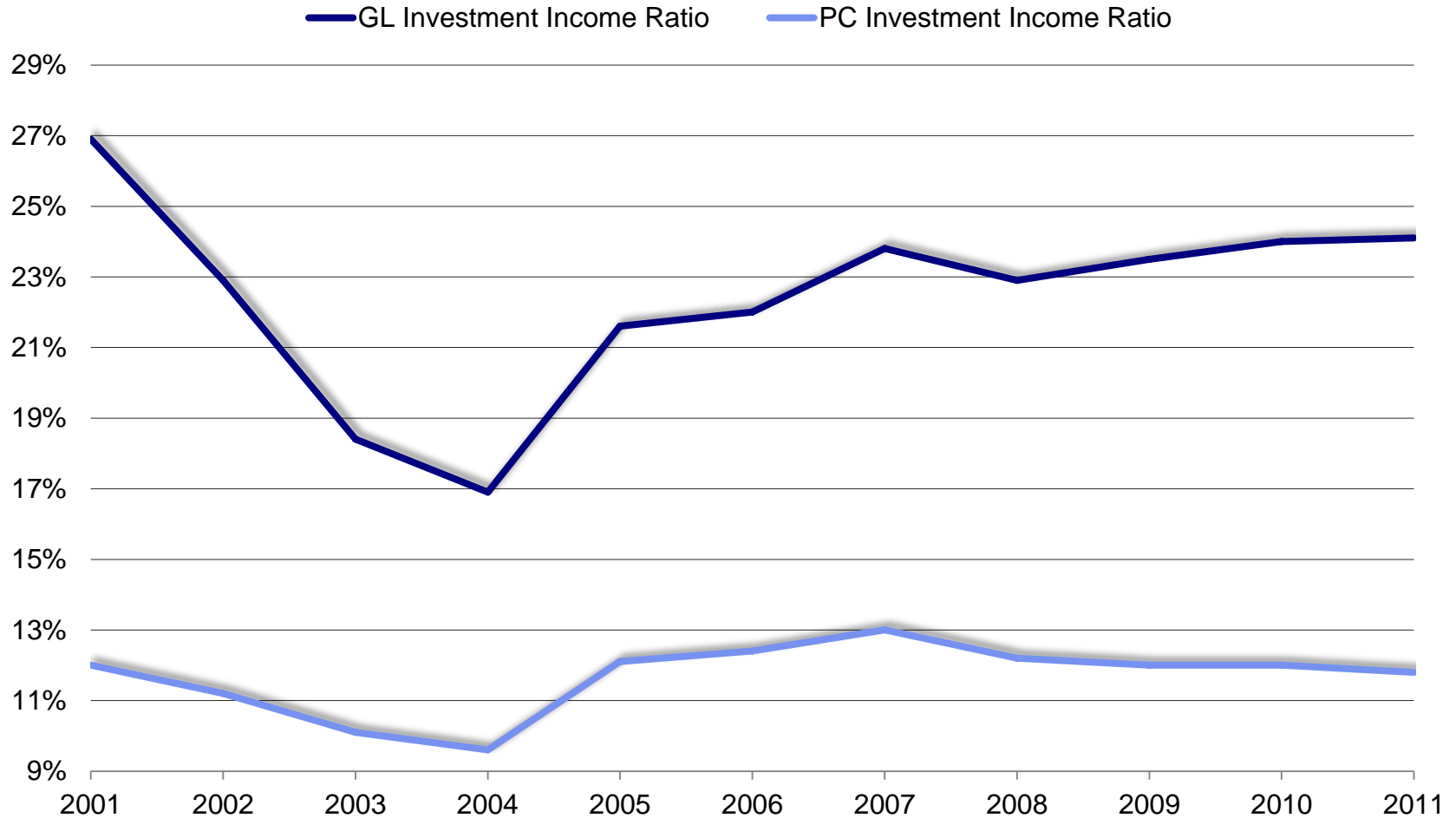
General Liability and Total Property-Casualty Industry Reserve Growth Outpaces Net Premiums Written Growth



Analysis: Conning Research & Consulting. Data: © A.M. Best Company—used by permission.

GL Investment Income Ratio Historically High

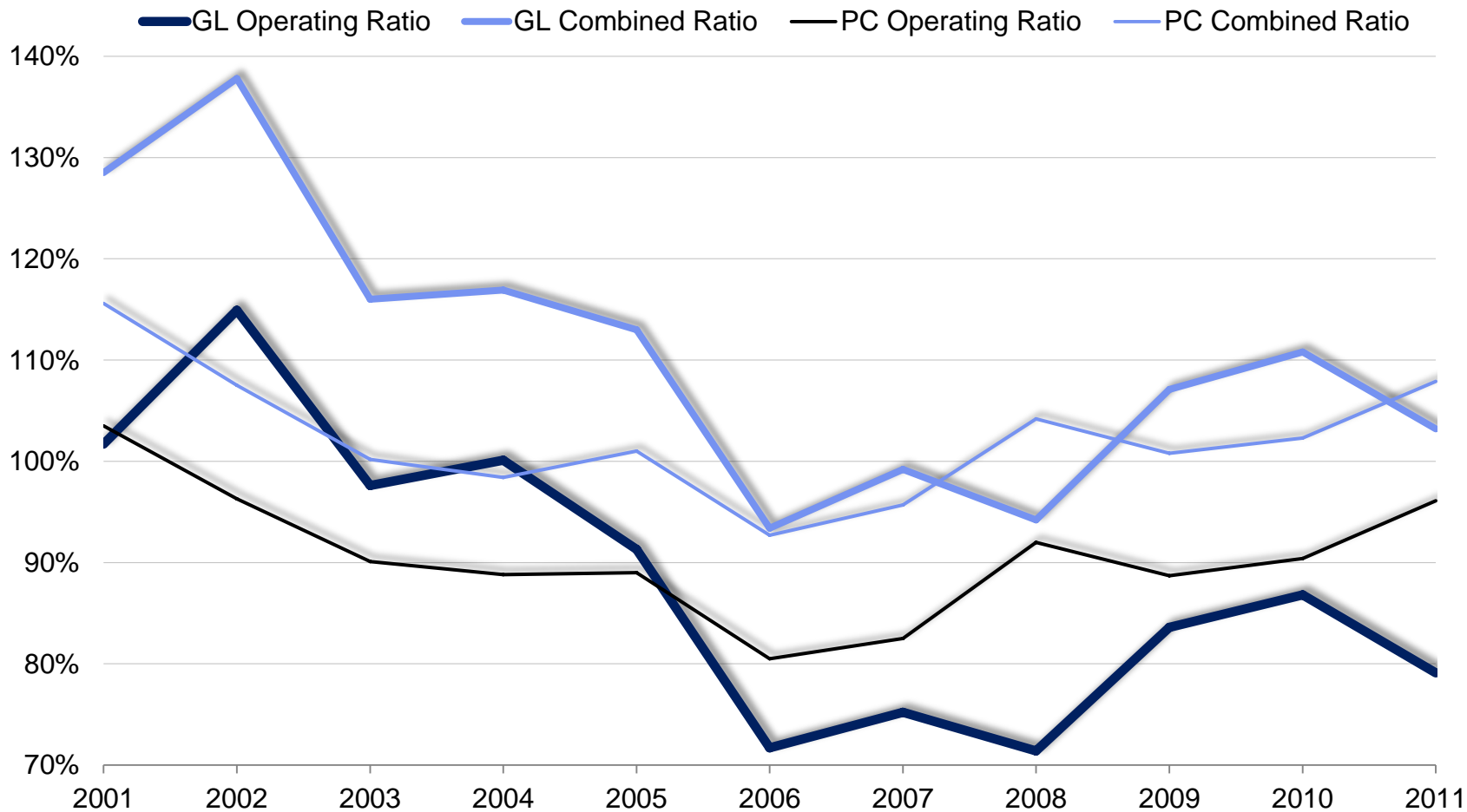
Investment Income as a Percentage of NPW -- General Liability vs. P-C Industry



Data: © A.M. Best Company—used by permission. Analysis: Conning Research & Consulting.

Supporting Favorable Operating Ratio

GL and PC Operating Ratio vs. Calendar Year Combined Ratio



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But Coming Under Pressure from Falling Book Yield

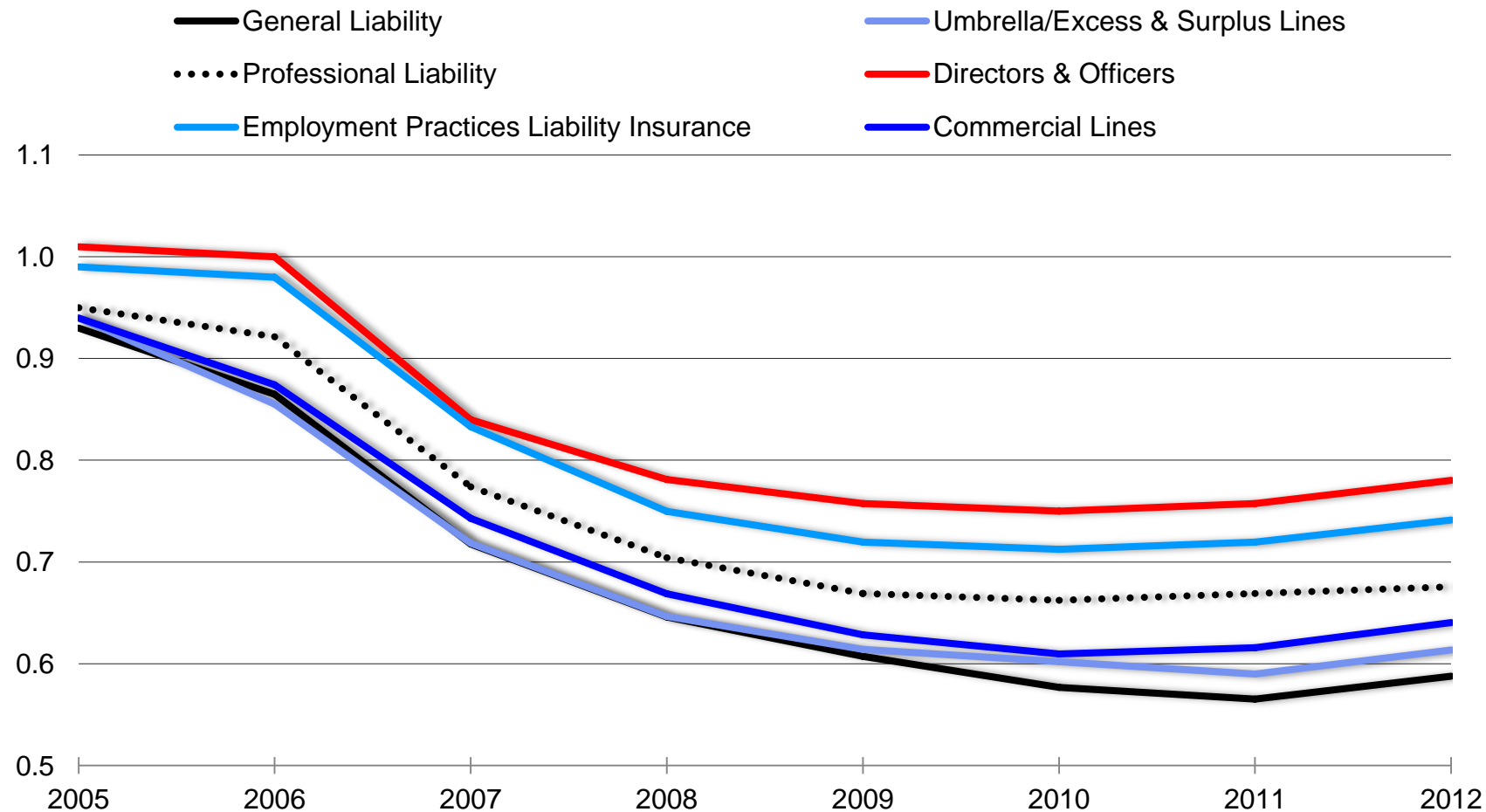
Book Yields for Liability Insurers and Other P-C Peer Groups

Year	Total Industry	Total x-BH & SF*	Comm. Casualty	Personal Lines	Workers' Comp.
2006	5.2%	4.9%	5.1%	5.0%	4.8%
2007	5.3%	5.1%	5.3%	5.2%	4.9%
2008	4.9%	4.7%	5.0%	4.7%	4.7%
2009	4.5%	4.3%	4.5%	4.4%	4.5%
2010	4.3%	4.2%	4.5%	4.4%	4.2%
2011	4.4%	4.1%	4.4%	4.3%	4.0%

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Liability Insurance Rates Have Fallen

Liability Insurance Rate Trends

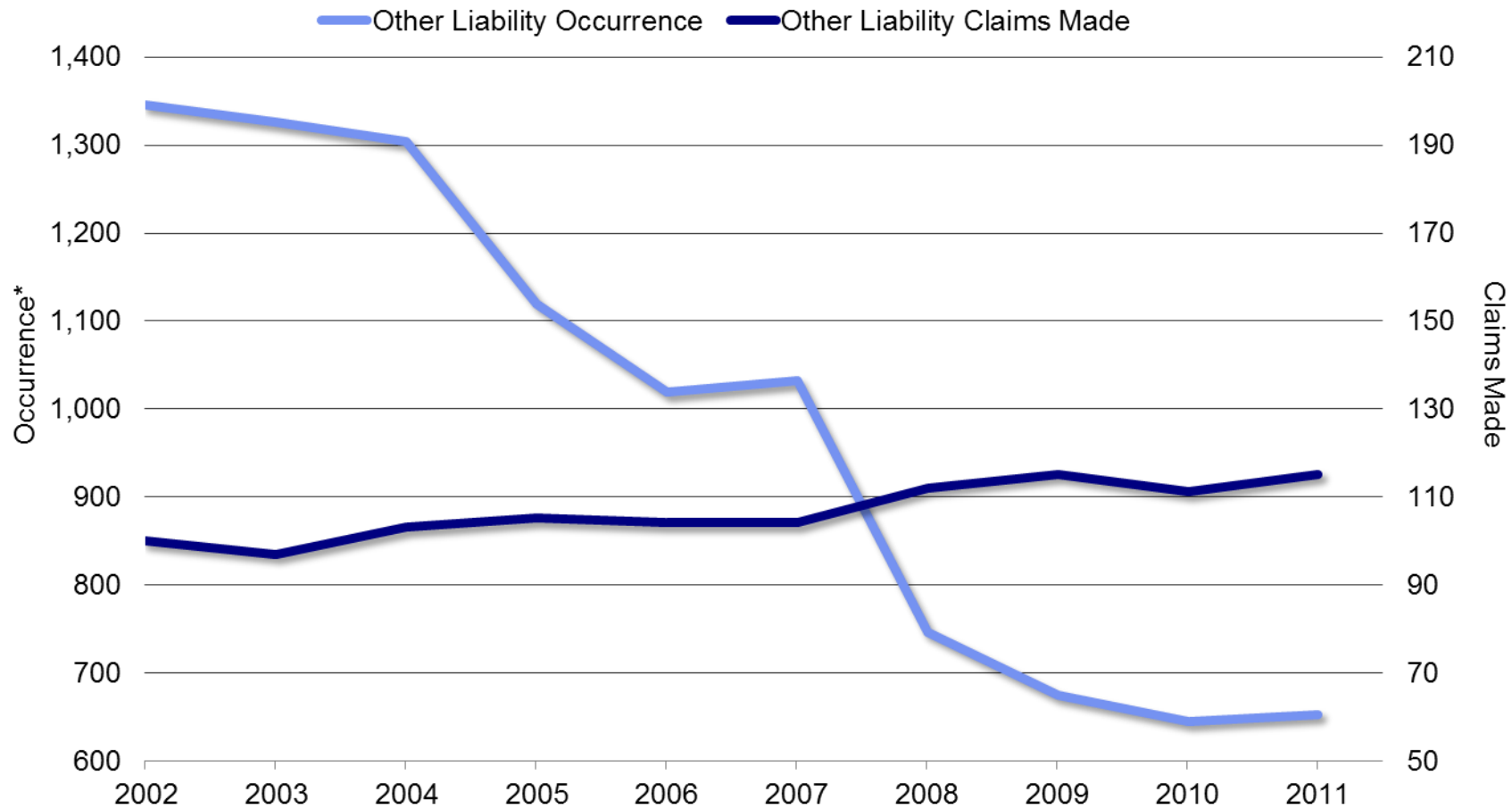


Data: MarketScout. Analysis: Conning Research & Consulting.

Other Liability Claim Counts Have Fallen Sharply

Estimated Other Liability Claim Count at First Report

(# in thousands)

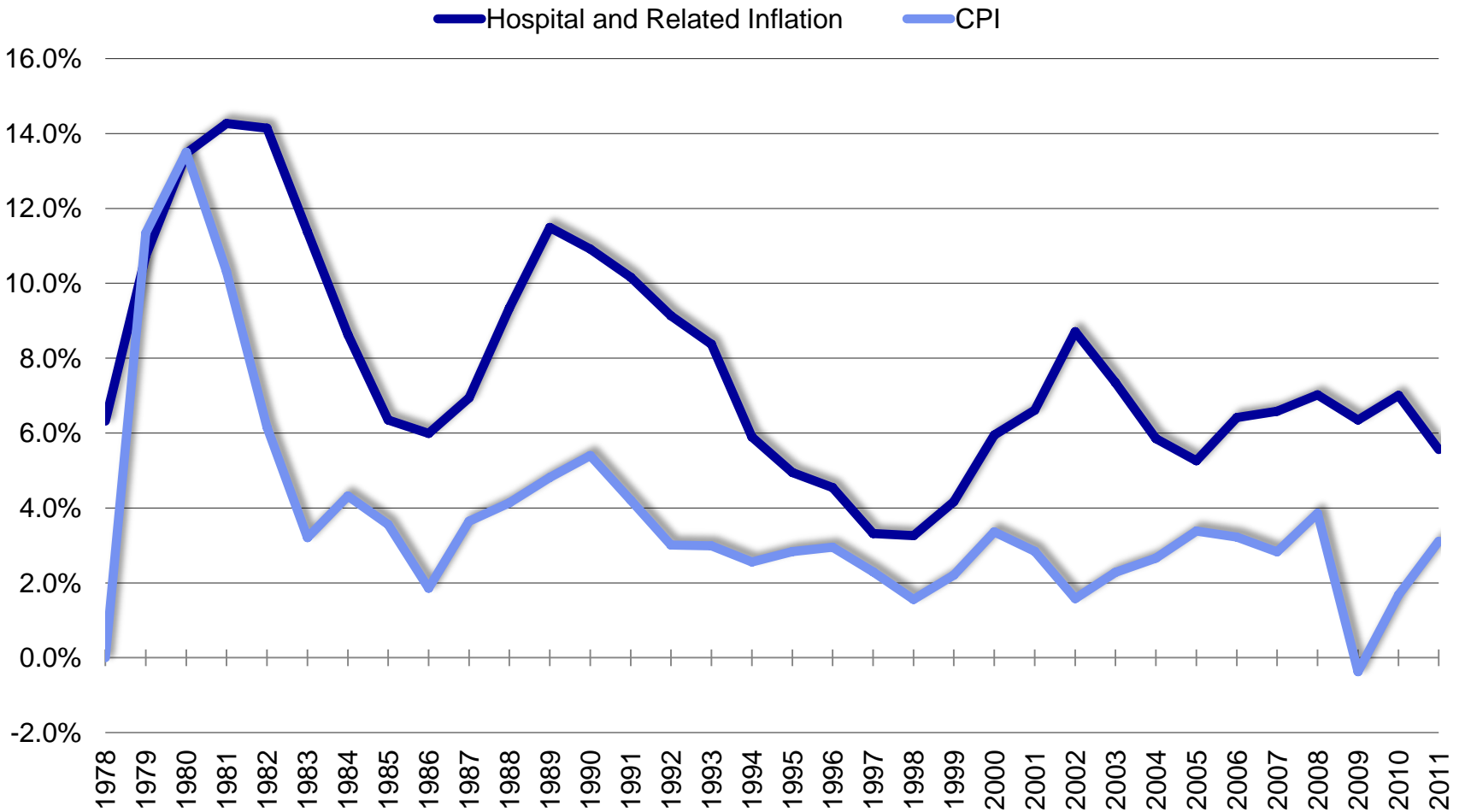


*Excludes warranty companies

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But Medical Inflation is Driving Loss Severity Upward

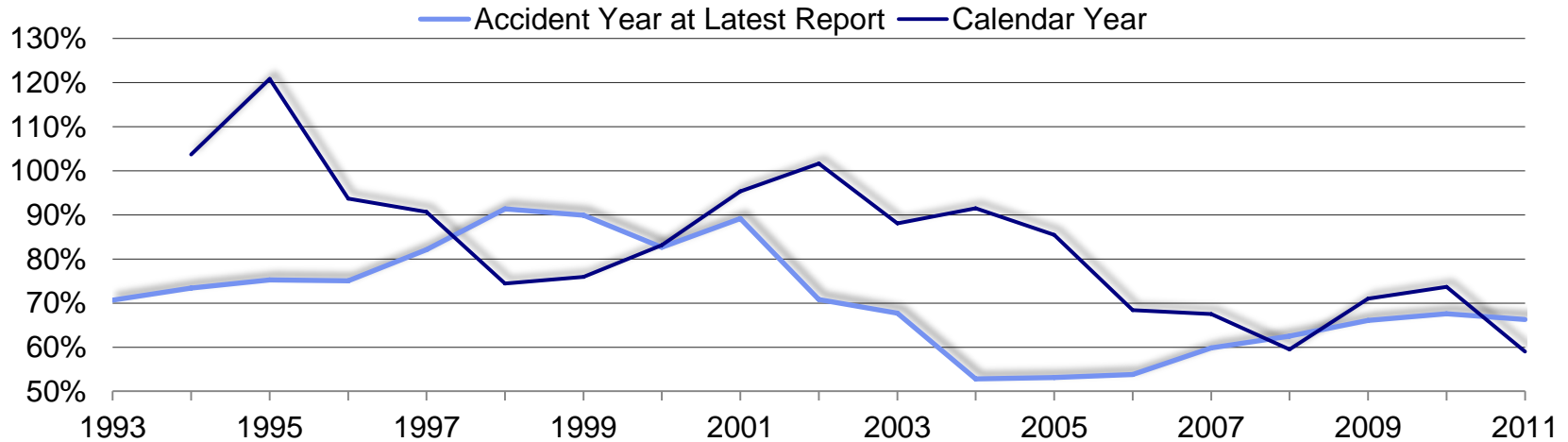
Inflation Rate in Hospital and Related Costs Outpacing the General CPI



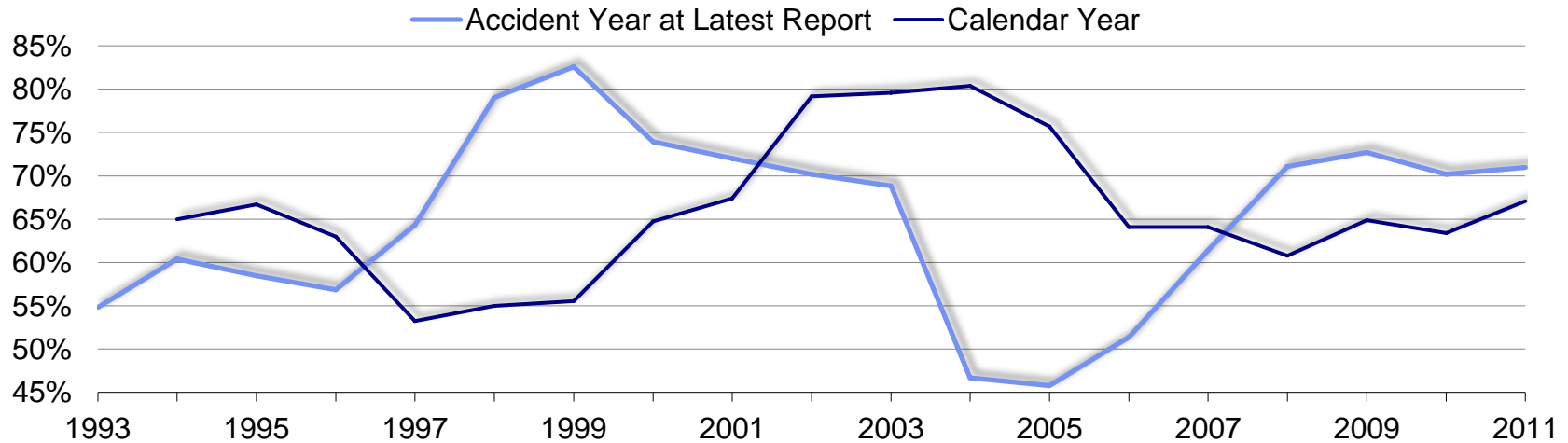
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GL Accident Year Results are Worsening

Occurrence Loss Ratio—Other Liability



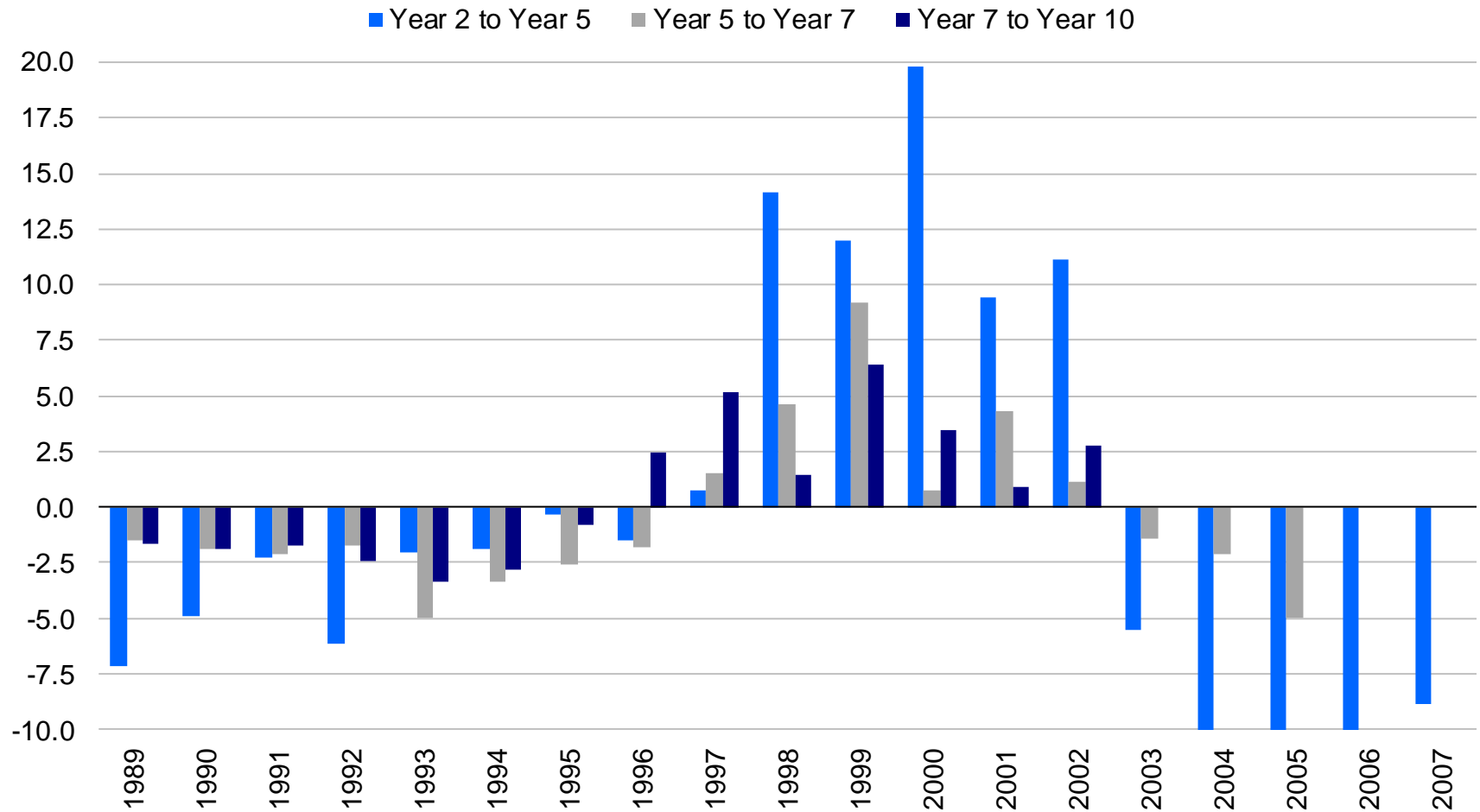
Claims-Made Loss Ratio—Other Liability



Data: © A.M. Best Company—used by permission. Analysis: Conning Research & Consulting.

As the Loss Reserve Cycle Runs its Course

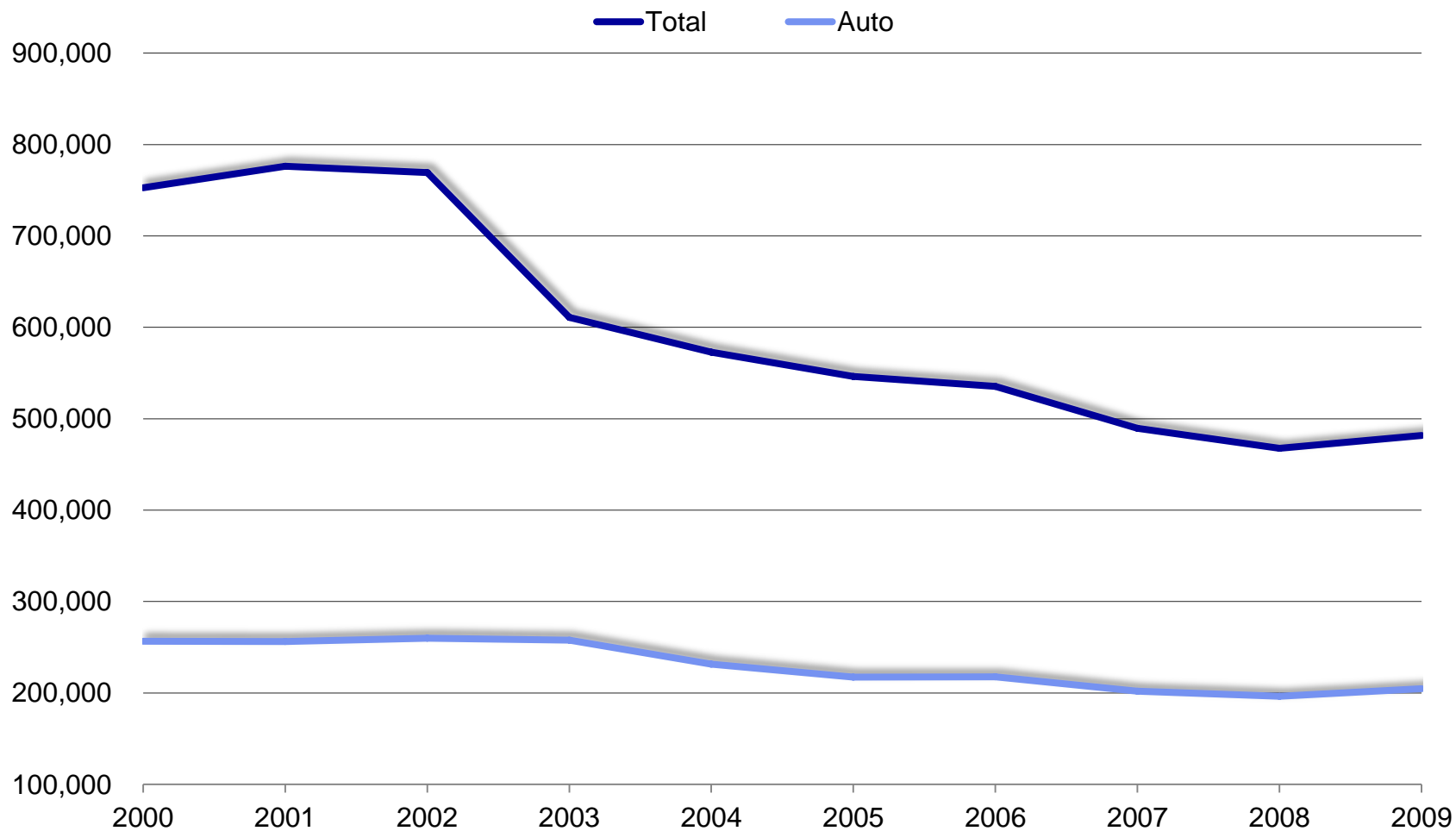
Changes in Accident-Year Incurred Loss Ratio—Other Liability—Occurrence



Data: © A.M. Best Company—used by permission. Analysis: Conning Research & Consulting.

The Decline in Tort Filings Appears Bottoming Out

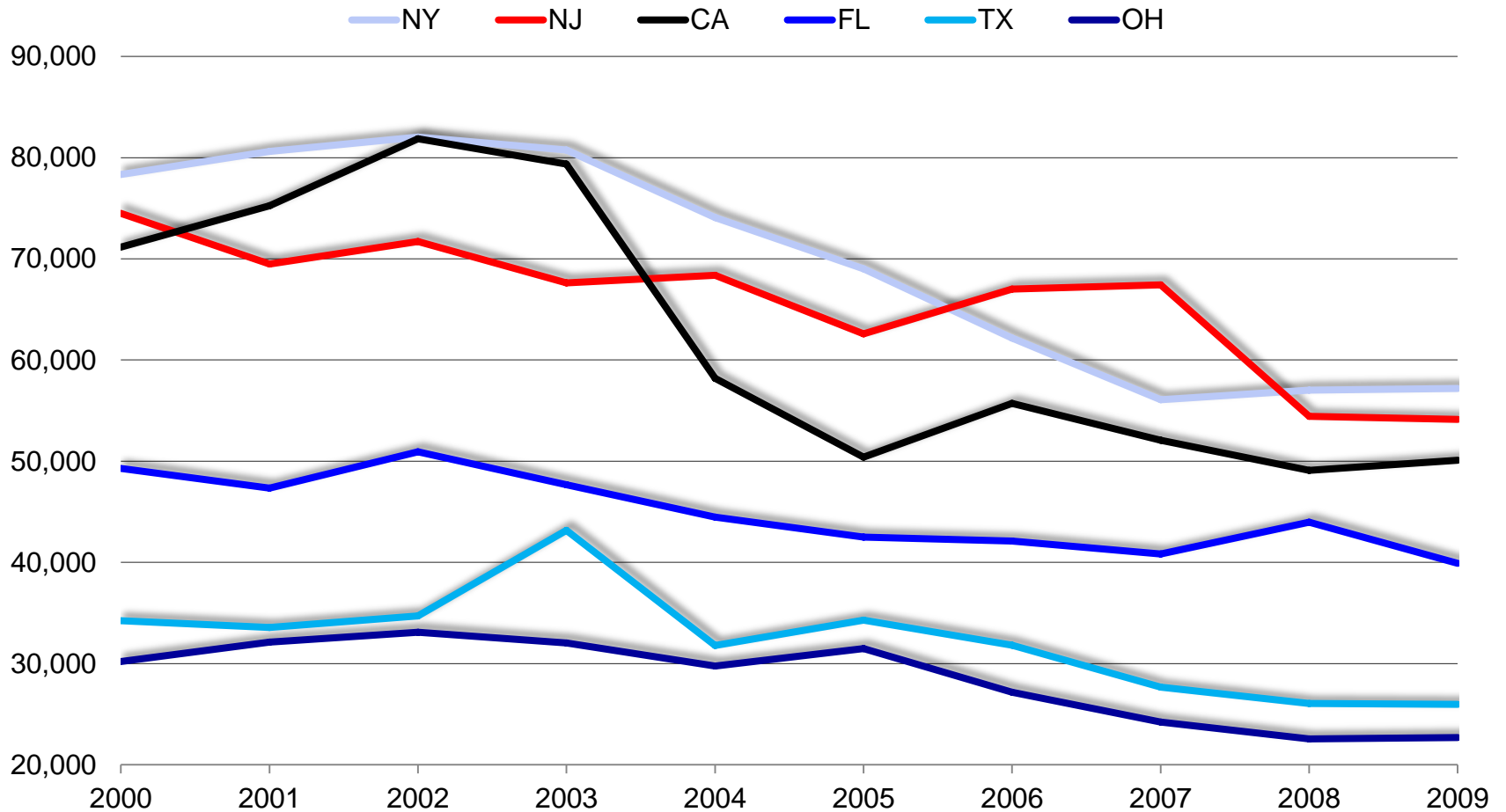
Tort Filings in State Courts



Data: National Center for State Courts. Analysis: Conning Research & Consulting.

◀ Bottoming out of Tort Filing Decline in Largest States

Tort Filings in Large States -- NY, NJ, CA, FL, TX, and OH



Data: National Center for State Courts. Analysis: Conning Research & Consulting.

- **Most tort filings are in state courts**
- **Most tort cases do not go before juries, but are decided by judges in bench trials**
- **Judges are people, and people have ideological and political inclinations**
- **Some judges are elected**
- **Some states are more plaintiff-friendly, and some are more defense-friendly**
- **The ‘defense-friendliness’ of states is correlated with lower GL loss ratios**

Ranking of Business Climate is Correlated with GL Loss Ratio, 2011

	Direct GL Loss Ratio of 10 Most 'Business-Friendly' States	Direct GL Loss Ratio of 10 Least 'Business-Friendly' States
Median	38.2%	55.0%
Average	37.6%	52.1%

Data: U.S. Chamber Institute for Legal Reform. Analysis: Conning Research & Consulting.

Variation in Tort Climates Across States Do Matter

State Rankings, 2012 Results Versus 2002 Results

(1 is most business-friendly, 50 least so)

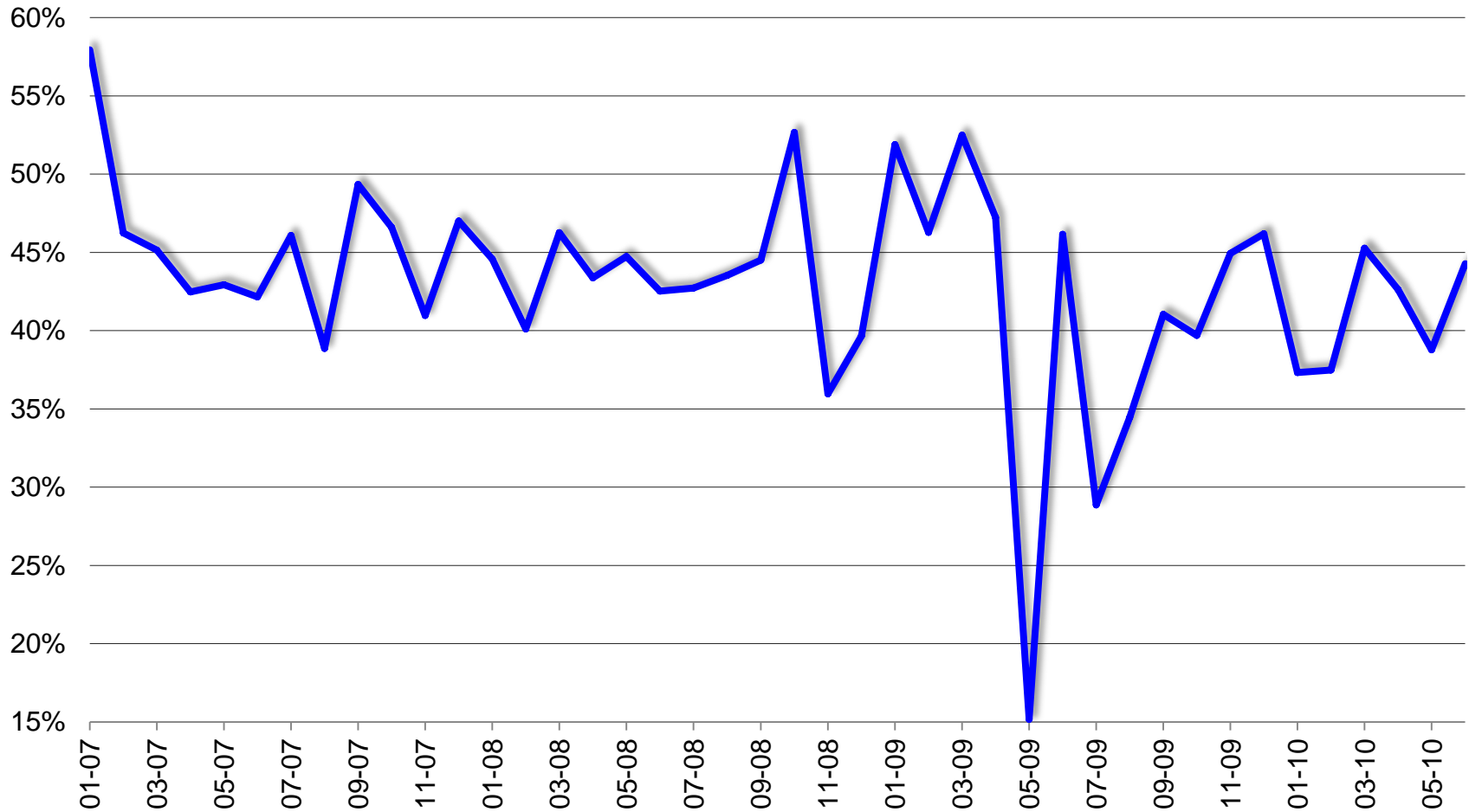
2012 Rank	2002 Rank	State	2012 Rank	2002 Rank	State
1	1	DE	41	33	FL
2	6	NE	42	41	OK
3	20	WY	43	48	AL
4	18	MN	44	39	NM
5	4	KS	45	43	MT
6	14	ID	46	34	IL
7	2	VA	47	45	CA
8	25	ND	48	50	MS
9	8	UT	49	47	LA
10	5	IA	50	49	WV

Data: U.S. Chamber Institute for Legal Reform. Analysis: Conning Research & Consulting.

- Tort reforms introduced in numerous states in the past decade capping noneconomic and punitive damages
- Class Action Fairness Act (2005) attempts to control 'class actions gone wild' phenomenon
- *Bell Atlantic v. Twombly* (2007) introduces higher pleading standards
- *Ashcroft v. Iqbal* (2009) continues higher pleading standard
- Restatement of Torts, Third introduces subtle shift from strict liability back to negligence theory

Though Impact of Higher Pleading Standards is Unclear

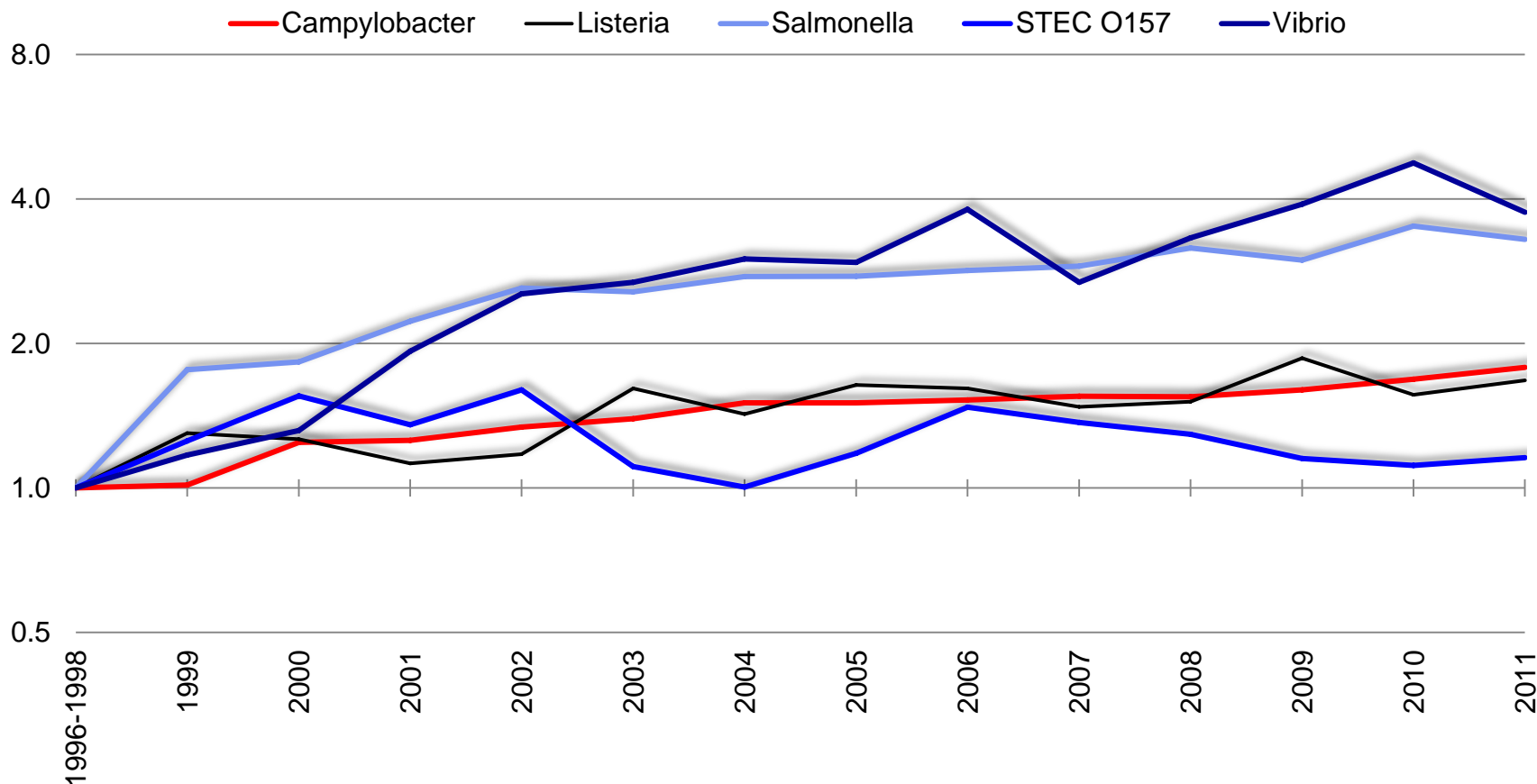
Personal Injury Motions to Dismiss Granted as a Percentage of PI Cases Filed



Data: Statistics Division, Administrative Office of the U.S. Courts. Analysis: Conning Research & Consulting.

But the Potential for New Liability Sources is Growing

Foodborne Diseases Active Surveillance Network, United States, 1996--2010*



STEC (Shiga toxin-producing Escherichia coli O157)

**The position of each line indicates the relative change in the incidence of that pathogen compared with 1996-1998. The actual incidences of these infections cannot be determined from this graph. Data are preliminary.*

Data: Center for Disease Control and Prevention. Analysis: Conning Research & Consulting.

- **Liability insurance results subject to diverse, less predictable drivers**
- **Liability insurance results pressured by shrinking investment returns, unfavorable loss frequency and severity trends**
- **Tort climate has been business-friendly, but will it hold?**
- **Wide gap separating ‘business-friendly’ from ‘business-unfriendly’ states**
- **Manifestation of latent risks and emergence of new risks the wild card**

ABOUT CONNING

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