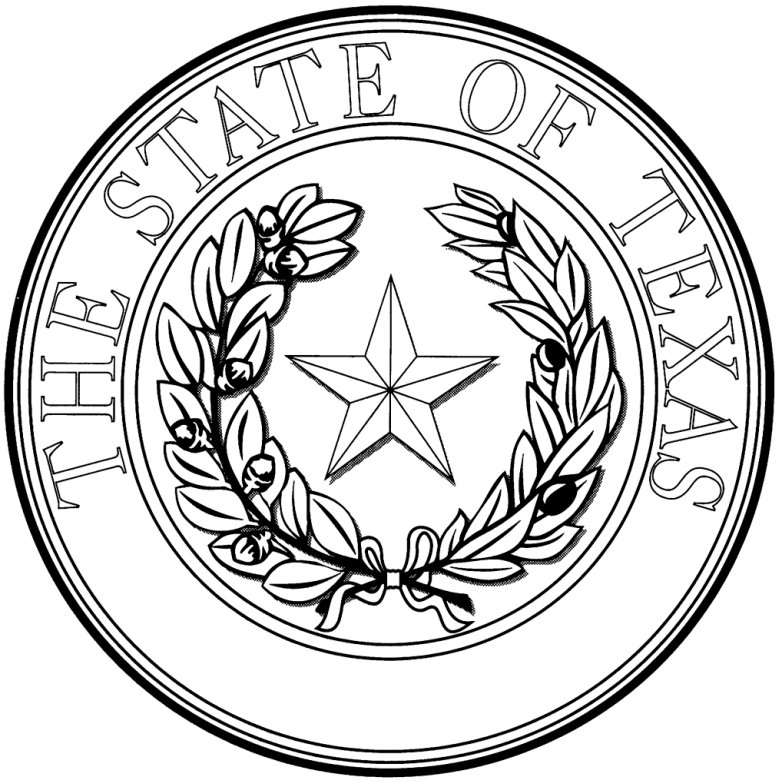
The 2009 Texas Liability Insurance Closed Claim Annual Report



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Background

This is the twenty-second Texas Liability Insurance Closed Claim Annual Report prepared by the Texas Department of Insurance (TDI) in accordance with the provisions of §§38.159 - 38.163, Texas Insurance Code. The legislative history of this statute indicates that there was an absence of reliable information concerning liability insurance claims, related court actions and other information pertinent to the claims settlement process and the civil justice system in Texas. The reporting requirements contained in this statute provide TDI with the authority to gather liability claims information and the responsibility of compiling the data and issuing an annual report. Following the statutory distinctions, the State Board of Insurance adopted two separate forms for reporting liability claims closed with bodily injury indemnity settlements; the Short Form and the Long Form.

House Bill 2877, enacted by the 81st Texas Legislature, effective September 1, 2009 raised the threshold amounts for reporting Closed Claims.

Claims Closed BEFORE September 1, 2009

- Short Form – Indemnity Settlements over $10,000 but less than $25,000
- Long Form – Indemnity Settlements of $25,000 or more

Claims Closed ON September 1, 2009 AND AFTER

- Short Form – Indemnity Settlements over $25,000 but less than $75,000
- Long Form – Indemnity Settlements of $75,000 or more

TDI collects the forms on a quarterly basis and reviews the forms manually and electronically to monitor data quality. Insurers submitted 7,778 reports for claims that closed in 2009. These claim reports account for over $1.3 billion in paid settlements.

Introduction

The data utilized in the preparation of this report include 7,778 commercial liability closed claims involving bodily injury settled under Texas law that were submitted for calendar year 2009 on the Quarterly Closed Claim Reports for the following lines of insurance:

- General Liability
- Medical Professional Liability
- Other Professional Liability
- Commercial Automobile Liability
- The Liability Portion of Commercial Multi-peril Insurance

The 2009 quarterly closed claim database includes claims from 297 insurance companies and 7 self-insurers. Claims included in the database have been settled or otherwise disposed of, and the insurer has made all indemnity and expense payments on the claim. These reports do not include property damage, open claims, or claims not settled under Texas law.

Payment amount in this report refers to the amount paid by the primary carrier on line 12 A.1 of the quarterly closed claim reports. Settlement amount refers to the amount paid by all parties on line 12 A.7 of the quarterly closed claim reports. The settlement amount may include payments from other insurers, the insured, excess carriers and other defendants that may not submit closed claims due to the reporting requirements.

Of the 7,778 forms available for the preparation of this report, 3,335 were Short Forms and 4,443 were Long Forms, allocated as follows:

Claims Closed BEFORE September 1, 2009

- 2,557 Short Forms – Indemnity Settlements over $10,000 but less than $25,000
- 3,485 Long Forms – Indemnity Settlements of $25,000 or more

Claims Closed ON September 1, 2009 AND AFTER

- 778 Short Forms – Indemnity Settlements over $25,000 but less than $75,000
- 958 Long Forms – Indemnity Settlements of $75,000 or more

Although they account for 43% of all reports, only 8% of the total payments were reported on the Short Forms as illustrated in Figure 1.

FIGURE 1

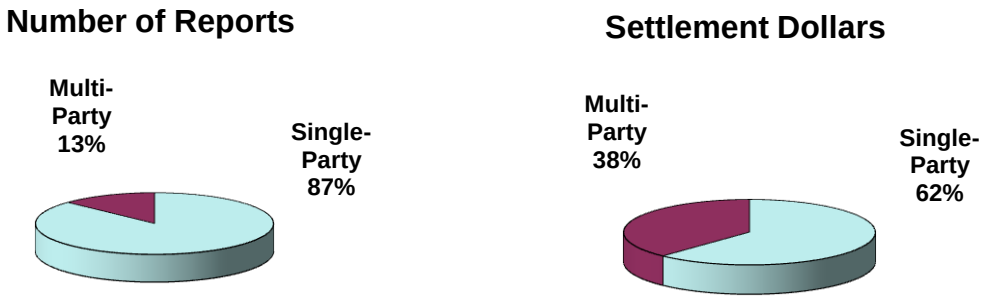
SHORT FORM VS. LONG FORM

The report differentiated between the single defendant cases (single-party) and the more complex cases that involved multiple defendants (multi-party). Single-party claims involve only payments by the reporting insurer as primary carrier and/or payments by the insured for deductibles or payments in excess of policy limits. Multi-party claims, which involve payments by excess carriers or amounts paid on behalf of other defendants, account for 13% of the 2009 reports and 38% of the settlement dollars as shown in Figure 2.

Carriers report the amount they paid on a claim as well as the total known settlement amount paid to the claimant. The total settlement amount may include payments from other insurers, the insured, excess carriers and other defendants. Single-party claims make up the majority of all claim reports, and the majority of settlement dollars come from single-party claims.

FIGURE 2

SINGLE-PARTY VS. MULTI-PARTY



Payments and Expenses

A total of $1,365,214,020 in settlements from 7,778 closed claim forms are included in this report as shown in the last line of Figure 3. One should keep in mind that the total settlement amount might be incomplete. Reports indicating involvement of other contributing parties may not have included the other contributing parties' payments in the total settlement amount.

It is also possible for a closed claim report to indicate payment by more than one contributing party; therefore, the number of claims shown on the "Total settlement" row may not equal the sum for each contributing party.

FIGURE 3

2009 CLOSED CLAIM DATA BASE SUMMARY

Contributing Parties	Claims	Amount Paid
Primary carrier	7,100	$843,223,431
Insured due to deductible	986	$80,743,556
Insured in excess of policy limits	26	$11,087,607
Excess carrier	154	$238,246,140
Other insured defendants	469	$182,231,562
Other uninsured defendants	68	$9,681,724
Total settlement	**7,778**	**$1,365,214,020**

Figure 4 shows the average payment amount for all claims was $108,411. The single-party average claim payment was $92,378 as compared to the multi-party average claim payment of $219,757.

FIGURE 4

THE AVERAGE 2009
COMMERCIAL LIABILITY CLAIM
SINGLE-PARTY VS. MULTI-PARTY

Average	Single-Party	Multi-Party	All Forms
Payment Amount	$92,378	$219,757	$108,411
Final Indemnity Reserve	$111,596	$272,143	$131,803
Allocated Loss Adjustment Expense	$15,607	$87,476	$24,653
Final Expense Reserve	$12,219	$84,448	$21,310
Claim Duration (Months)	19.1	27.6	20.1

It appears that the majority of payments paid by the primary carrier occur in a small number of claims. Although claims with payments greater than $150,000 comprise only 18% of claims reported, they account for 73% of the total dollar amount of payments reported in the study. These ranges are shown in Figure 5 below.

FIGURE 5

NUMBER OF PAYMENTS BY PAYMENT RANGE

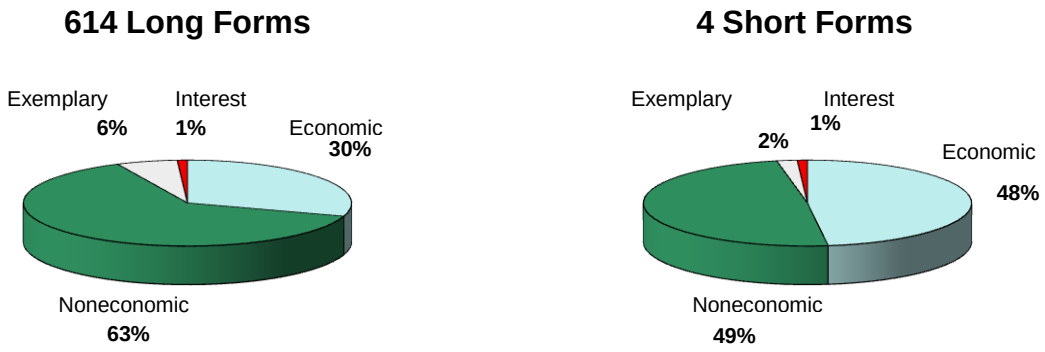
Payment Range	Single-Party	Multi-Party	Total
$10,000 and less	655	63	718
$10,001 - $24,999	2,290	64	2,354
$25,000 - $74,999	2,097	269	2,366
$75,000 - $149,999	756	200	956
$150,000 - $299,999	492	177	669
$300,000 - $499,999	229	87	316
$500,000 - $999,999	210	86	296
$1,000,000 and over	70	33	103
All Payments	**6,799**	**979**	**7,778**

On Long Forms, adjusters were asked for their opinions as to whether the settlement was influenced by non-economic losses, exemplary damages or prejudgment interest. For the 614 Long Forms that indicated the categories of non-economic losses, exemplary damages or prejudgment interest influenced the settlement of the claim, 30% of the damages were designated to economic losses, 63% to non-economic losses, 6% to exemplary damages, and 1% to prejudgment interest. These percentages are displayed in Figure 6.

On the Short Forms, adjusters were asked for their opinions as to whether the potential for the assessment of exemplary damages influenced settlement amounts. They were asked to allocate damages into categories when exemplary damages influenced the settlement. These categories are (1) economic losses; (2) non-economic losses; (3) exemplary damages; and (4) prejudgment interest. In the adjusters' opinions, there were 4 Short Forms that were influenced by exemplary damages. The percentages by categories are also shown in Figure 6.

FIGURE 6

DAMAGES
INFLUENCED BY EXEMPLARY DAMAGES



The available data from 4,443 Long Forms indicates the use of structured settlements in the final resolution of 248 indemnity claims (6%). These structured settlements amounted to $220,247,362 with an average settlement amount of $888,094 and a median settlement amount of $442,500. In these 248 cases, the immediate payment was on average 65% of the total settlement amount, while the structured portion was 35% of the total settlement amount.

Of the 4,443 Long Forms, 1,610 (36%) indicated that they were aware of the availability of some collateral sources of reimbursements to the injured person. Since claimants are not required to make this information available to insurers, this data may not have been reported in all cases where collateral sources were available. Figure 7 shows the collateral sources reported.

FIGURE 7

COLLATERAL SOURCES

Collateral Sources	Number of Forms
Workers' Compensation	531
Medical Insurance	790
Disability Insurance	57
Social Security Benefits	40
Medicare, Medicaid	377
Sick Leave	37
Other	73

Insurers were asked on all forms to divide their loss adjustment expenses into three categories: (1) outside defense counsel; (2) in-house defense counsel; (3) other expenses. A total of 3,420 forms indicate no allocated loss adjustment expense for the claim reported.

One of the three categories of expense was shown on the other 4,358 reports. Figure 8 shows the relationship of loss adjustment expenses to claim payments. The ALAE to payment ratio increased as average payment increased. Since cost containment expenses are not reported on the closed claim forms, the data in this section understates the amount of expenses incurred while settling the claim.

FIGURE 8

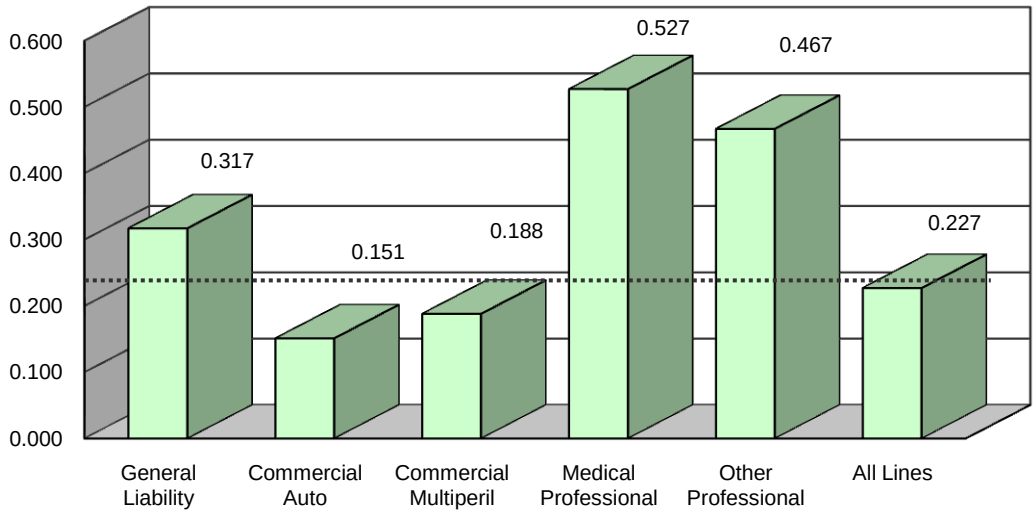
RATIO OF ALAE TO CLAIM PAYMENT BY ALAE RANGE

ALAE Range	Claims	Average Payment	ALAE/Payment Ratio
$0	3,420	$51,317	0.000
$1 - $ 2,999	757	$61,455	0.018
$3,000 - $ 5,999	367	$80,006	0.056
$6,000 - $ 9,999	435	$81,729	0.098
$10,000 - $24,999	988	$118,900	0.139
$25,000 - $49,999	780	$172,494	0.207
$50,000 and over	1,031	$295,116	0.466
Total	**7,778**	**$108,411**	**0.227**

The data from all forms indicates that the average allocated loss adjustment expense was 22.7% of the insurer's payment. Figure 9 compares the ALAE/Payment ratio by line of insurance. Claims without allocated adjustment expenses are included. The ratio for all lines of 0.227 is shown by a dotted line for comparison purposes.

FIGURE 9

ALAE/PAYMENT RATIO BY LINE OF INSURANCE

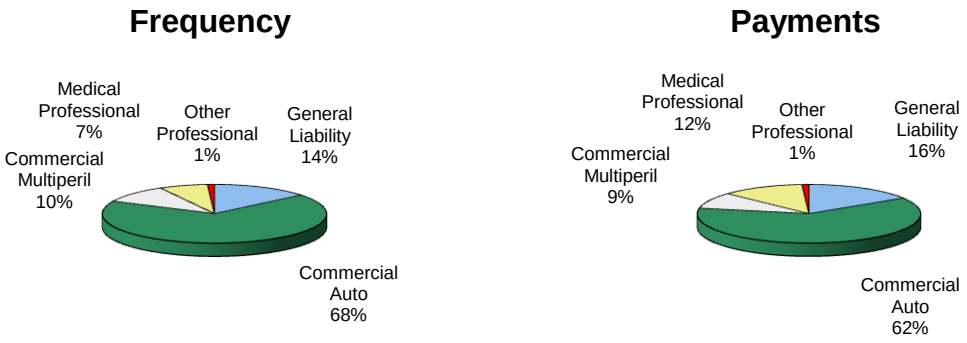


Insurance Policy Data

Commercial auto liability claims represent 68% of the closed claim reports filed and 62% of the insurer payments. General liability claims represent 14% of the closed claim reports filed and 16% of the insurer payments. Claims related to the liability portion on commercial multi-peril policies represent 10% of the reports filed and 9% of the insurer payments. Medical professional liability claims represent 7% of the reports filed and 12% of the insurer payments. Other professional liability claims represent 1% of the reports filed and 1% of the insurer payments. Only 58 cases involve other professional liability; therefore, the data relating to that line is highly variable and is treated accordingly. Figure 10 illustrates the comparative relationship between numbers of claims and amounts of claim payments among the five lines of insurance.

FIGURE 10

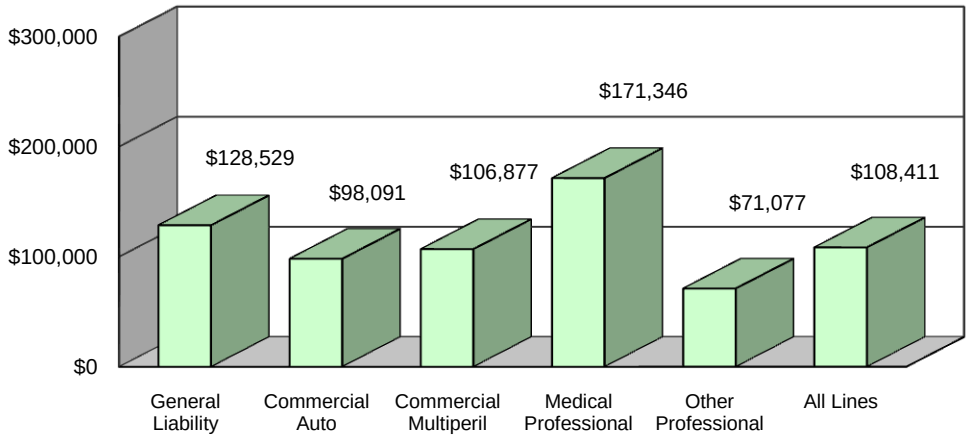
DISTRIBUTION OF CLAIMS AND CLAIM PAYMENTS BY LINE



Based on all forms from all lines, the average insurer payment is $108,411. Claims involving medical professional liability reflect the highest average with an average payment of $171,346. Other professional claims average $71,077, considerably below the average. These comparisons are illustrated in Figure 11. Note that these averages do not include settlements reported on the Aggregate Closed Claim Reports – see pages 25 and 26.

FIGURE 11

AVERAGE PAYMENT ALL LINES COMPARISON



Among the major insured business classifications reviewed, claims were most frequently cited in transportation, other (miscellaneous), wholesale-retail trade, construction firms, and physicians and surgeons. Twenty-six business classifications are included on the closed claim forms. The twelve business classifications listed in Figure 12 account for nearly 96% of the total reported claims and nearly 96% of the total payments reported for calendar year 2009.

FIGURE 12

FREQUENCY OF CLAIMS
BY BUSINESS CLASSIFICATION

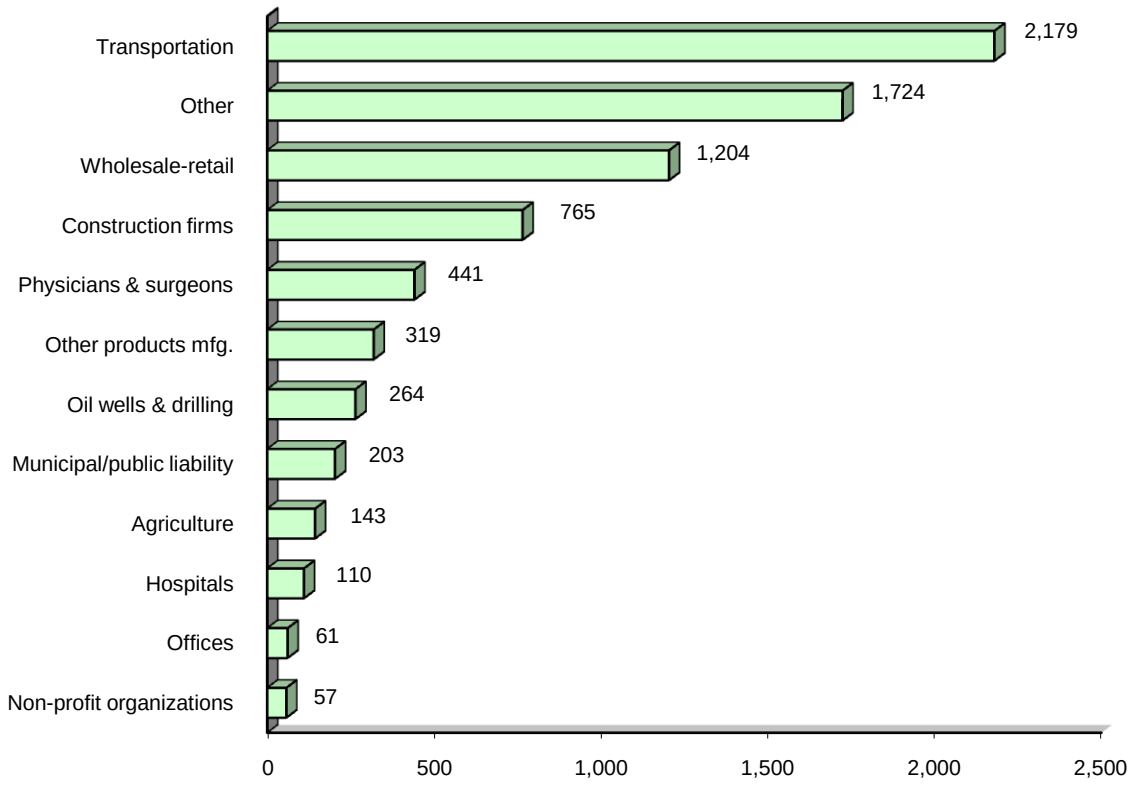
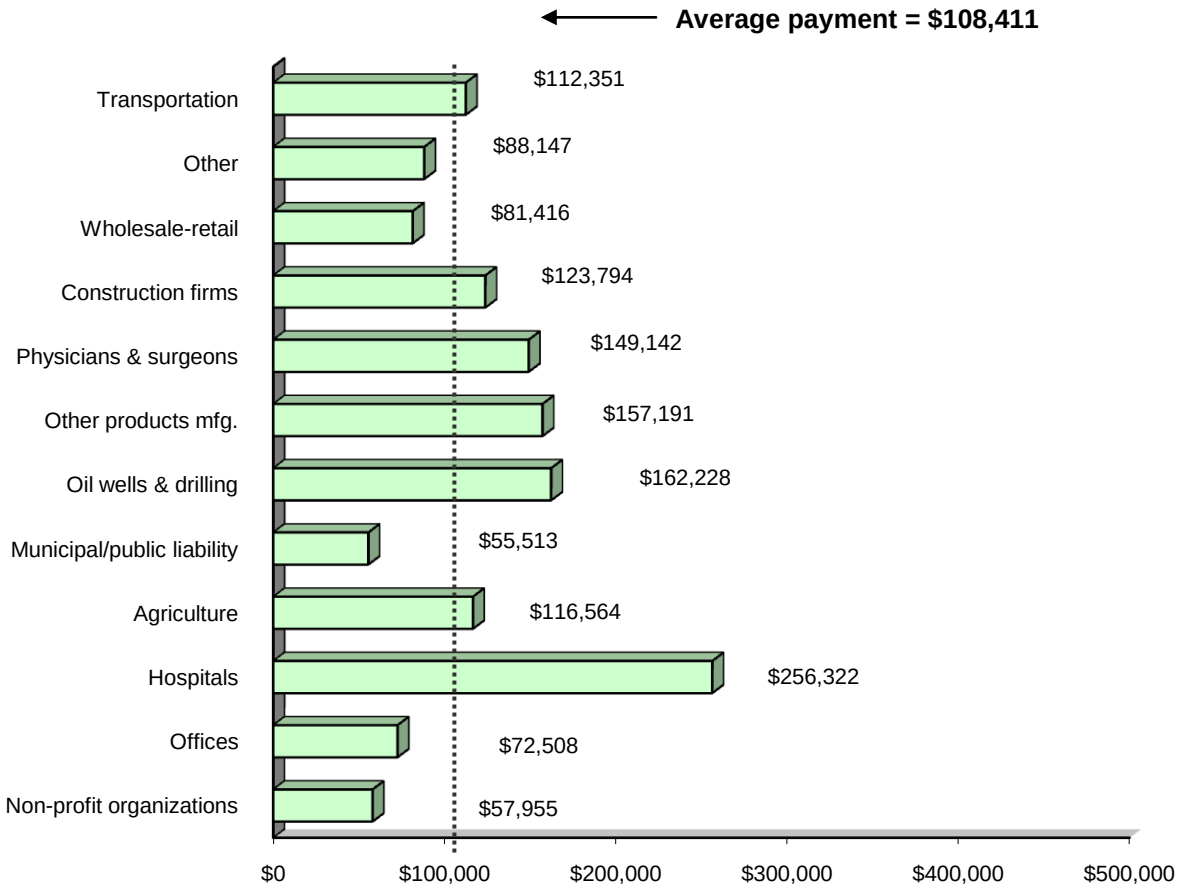


Figure 13 compares the average payment for each of the twelve major business classifications shown in Figure 12. The all lines average payment amount of $108,411 is represented by a dotted line for comparison purposes. Hospitals had an average claim payment of $256,322, the highest of the major classifications.

FIGURE 13

MAJOR BUSINESS CLASSIFICATIONS
AVERAGE CLAIM PAYMENT



A comparison of final demand or payment to the policy limit may be misleading due to the presence of multiple claimants and/or property damage in an occurrence. However, a minimum number of injuries affected by impaired or exhausted policy limits can be determined from the closed claim forms.

Figure 14 shows 302 claims (4%) were affected by impaired or exhausted policy limits while 61 (20%) of those claims involved excess carriers. The most frequent policy limit was $1,000,000 for each line of insurance.

FIGURE 14

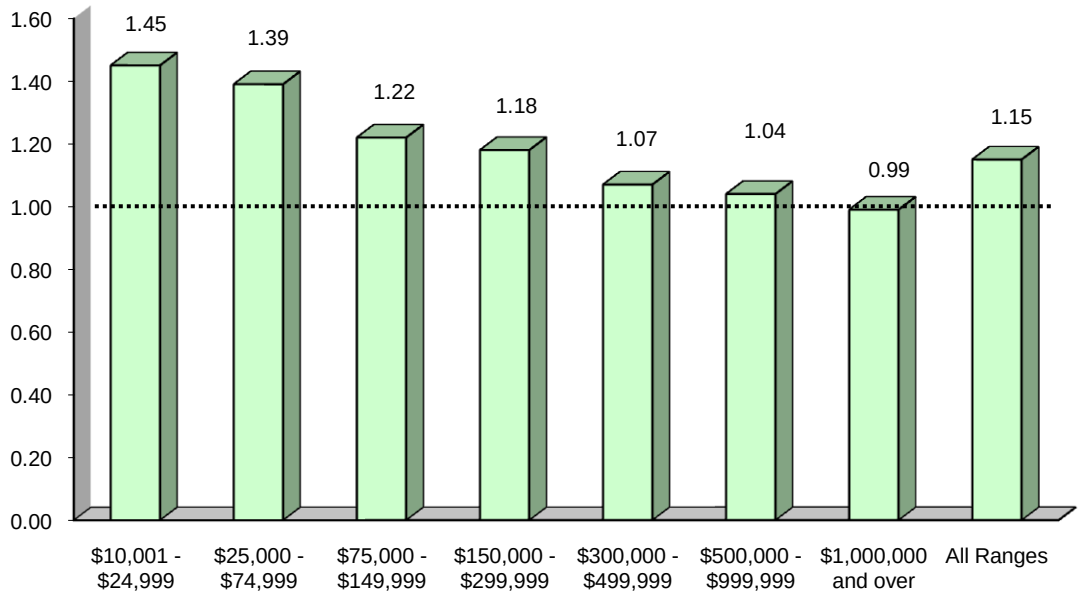
IMPAIRED OR EXHAUSTED POLICY LIMITS
BY LINE OF INSURANCE

Line of Insurance	Frequency	Average Payment	Excess Coverage Involved
General Liability	32	$989,484	13
Commercial Auto	191	$418,900	42
Commercial Multi-peril	16	$699,375	5
Medical Professional	63	$304,068	1
All Lines	**302**	**$470,264**	**61**

Since some insurers include expense reserves with indemnity reserves, they were combined in this report. The sum of the payment and allocated loss adjustment expenses is designated as an expenditure. Overall, the average initial case basis reserve of $48,912 was 37% of the average expenditure of $133,064. Sixty-one percent of the claims were over-reserved by $232,418,192 (just before the claim closed) while 23% were under-reserved by $76,473,442. The aggregate data from all forms indicates that expenditures were over-reserved by an average of 15%. A comparison by line of insurance is shown in Figure 15.

FIGURE 15

ALL LINES
RATIO OF FINAL CASE BASIS RESERVES TO EXPENDITURE
BY EXPENDITURE RANGE



***Adequate Reserve Ratio – 1.00**

Bodily Injury

The Long Form contains information relating to the type of injury, how the injury occurred, and the age of the injured person. Eighteen separate types of injuries are listed on the Long Form and insurers are instructed to select all applicable types of injuries. Please note that some forms may have incomplete settlement amounts because they are multi-party claims. The data from 4,443 Long Form settlements indicate that back injuries were the most common type of injury as shown in Figure 16. Insurers were instructed to select all the types of injuries applicable to the claim. Thus, in cases other than death, the same claim may be shown under more than one category of injury.

FIGURE 16

INJURY TYPE
NUMBER OF CLAIMS

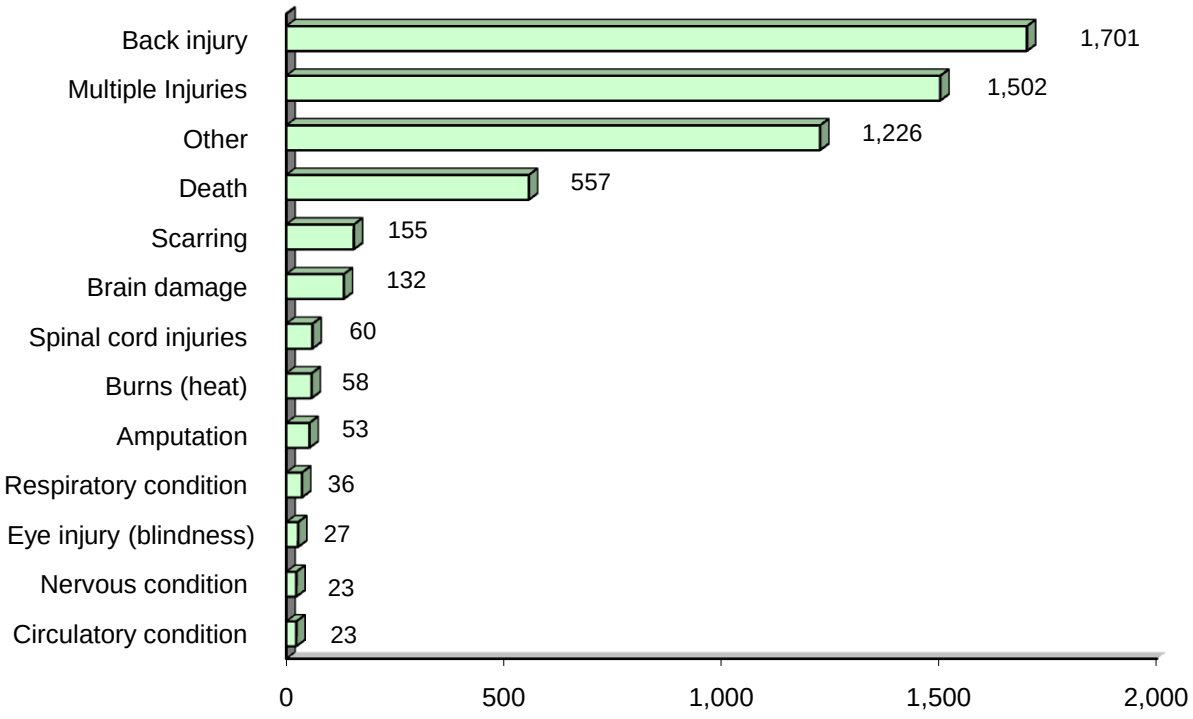
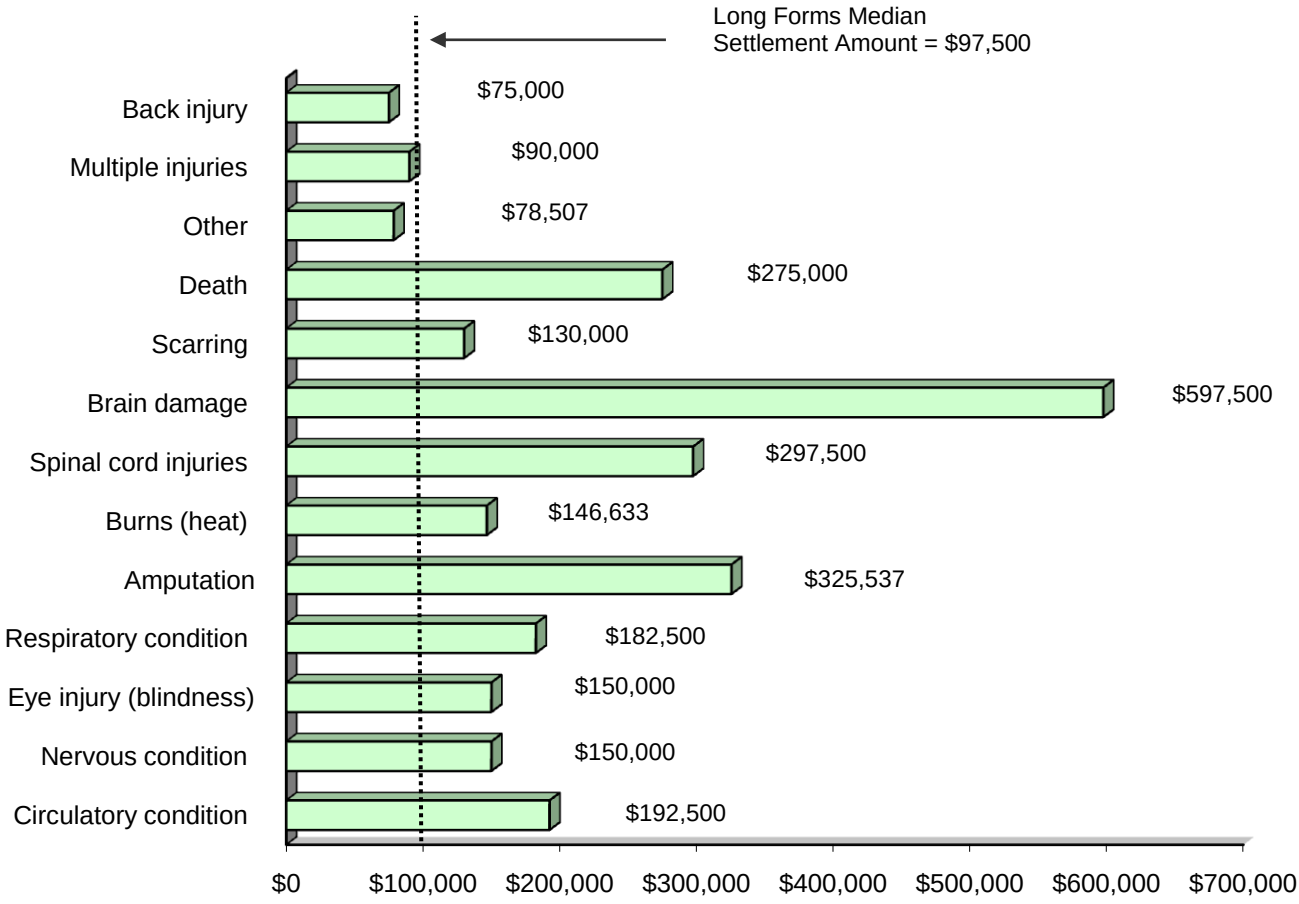


Figure 17 shows settlement amounts by injury type. Because of the possibility of duplicate reporting of injuries and the effect a large claim could have on the average claim amount, median settlement figures are used. The most costly claims closed in 2009 involved brain damage injuries.

FIGURE 17

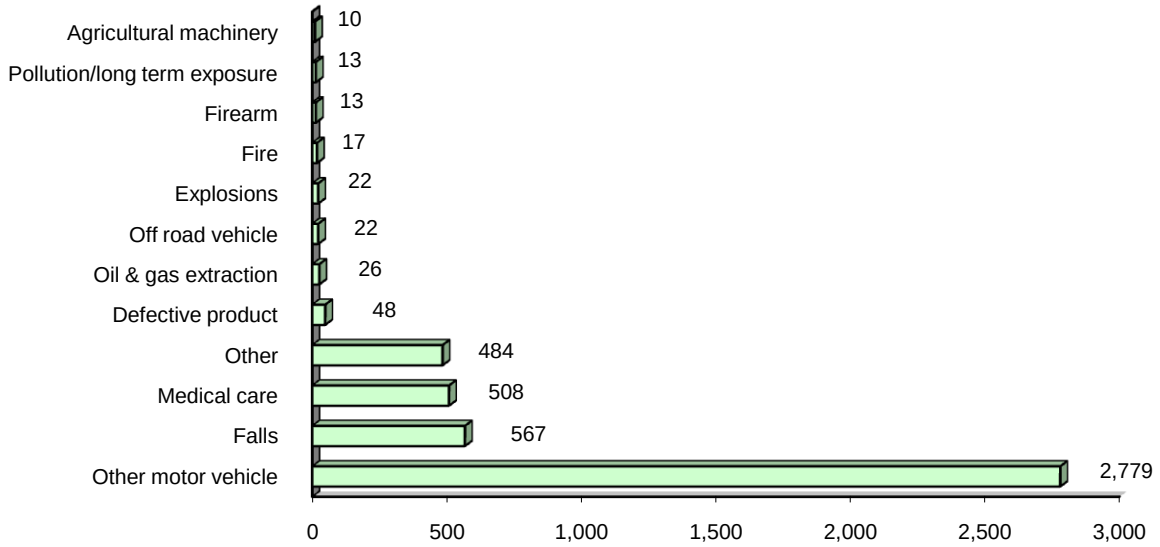
INJURY TYPE
MEDIAN SETTLEMENT AMOUNT



The Long Form also has 15 categories based upon the activity engaged in at the time of the injury. The twelve most frequent activities are shown in Figure 18. The adjusters' opinions here are subjective and may include more than one activity. For example a claim involving a defective automobile may be marked as use of defective product, motor vehicle or both. The operation of a motor vehicle was indicated as the most common injury related activity.

FIGURE 18

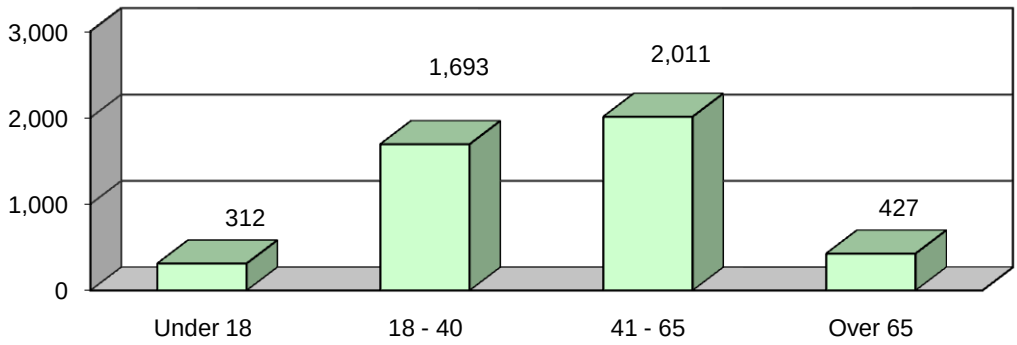
HOW THE INJURY OCCURRED
NUMBER OF CLAIMS



The age of the injured person at the time of injury was reported only on the Long Forms. Figure 19 indicates the age distribution. The median age of the injured party was 42 years.

FIGURE 19

ALL INJURIES
AGE DISTRIBUTION



There were 7,727 injuries that occurred in Texas and 51 injuries that occurred outside of Texas. Figure 20 shows the Texas counties with 50 or more injuries and shows the ratio of claims to county population. The statewide ratio is 31.18 claims for every 100,000 population.

FIGURE 20

WHERE THE INJURY OCCURRED

COUNTIES WITH 50 OR MORE INJURIES

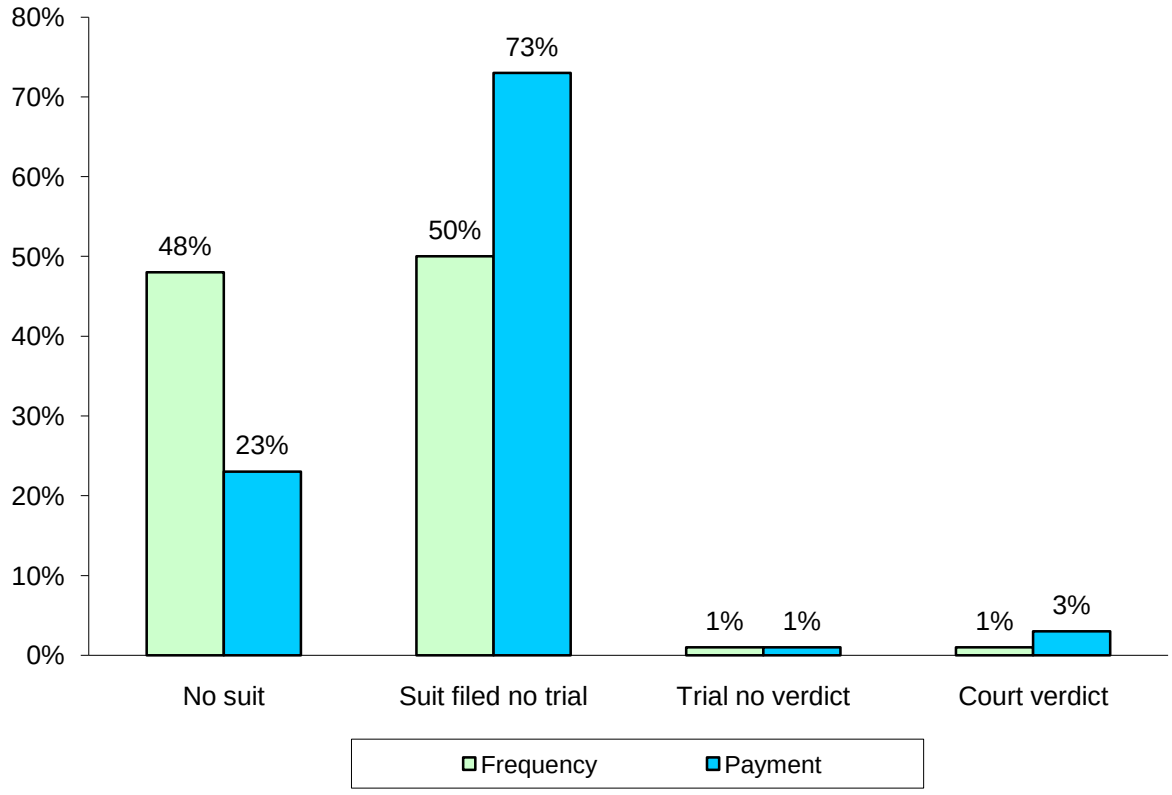
County	Number of Claims	Number of Claims/ 100,000 Population	Median Settlement Amount	Maximum Settlement Amount
Harris	1,526	37.48	$35,000	$15,000,000
Dallas	866	35.32	$32,538	$5,500,000
Tarrant	490	27.38	$32,817	$3,445,237
Bexar	477	28.88	$40,000	$4,556,875
Hidalgo	325	43.85	$45,000	$4,000,000
Travis	277	26.99	$35,000	$8,215,000
El Paso	188	25.02	$39,750	$6,000,000
Jefferson	163	67.01	$50,000	$8,000,000
Nueces	159	49.22	$50,000	$2,200,000
Collin	151	19.07	$35,000	$2,225,000
Cameron	150	37.84	$42,350	$2,622,500
Montgomery	114	25.46	$41,850	$9,500,846
Denton	112	17.01	$39,500	$2,862,225
Galveston	93	32.43	$50,000	$750,000
Smith	93	45.44	$50,000	$4,500,000
Brazoria	83	26.84	$45,000	$2,000,000
Webb	81	33.55	$30,000	$3,750,000
Fort Bend	75	13.47	$30,000	$1,062,500
Gregg	70	58.51	$28,789	$1,900,000
Orange	69	84.34	$65,000	$2,300,000
Johnson	67	42.68	$32,500	$16,000,000
Lubbock	67	24.76	$42,173	$2,750,000
Williamson	61	14.85	$35,000	$1,433,507

Claims Process

As can be seen in Figure 21, only one percent of all reported settlements involved a court verdict. The overwhelming majority of claims were settled without the necessity of a trial. There were court verdicts for 75 injuries reported on 11 Short Forms and 64 Long Forms. Since the claim settlement process does not end with the trial court's verdict, the closed claim forms were designed to capture data relating to the court verdict and the final settlement. The other defendants or the excess carrier may have contributed to the settlement without being involved in the court verdict and may have agreed to a settlement before or after a verdict. Since the total settlement amount for multi-party claims may be inaccurate or unknown, the section on court verdicts deals only with the payments of the 72 claims that appear to be complete.

FIGURE 21

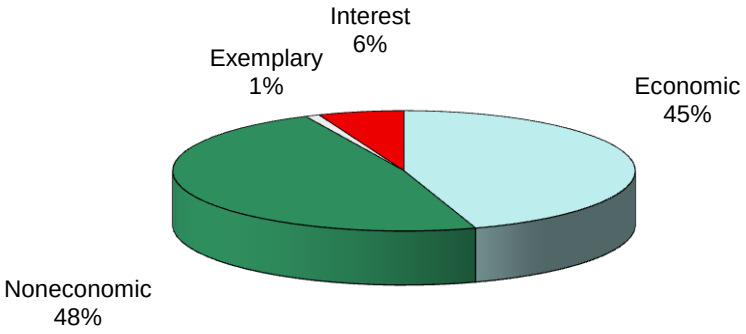
STAGES OF THE CLAIMS PROCESS



All closed claims that involved a court verdict required a distribution of the court verdict into four distinct categories of damages. The allocation of the verdict amount into damages is indicated in Figure 22.

FIGURE 22

COURT VERDICTS
DAMAGES BY CATEGORY



In reviewing the court verdicts in Figure 23 it was found that, on average, the verdict amount was reduced by over 39% before the case was finally settled.

FIGURE 23

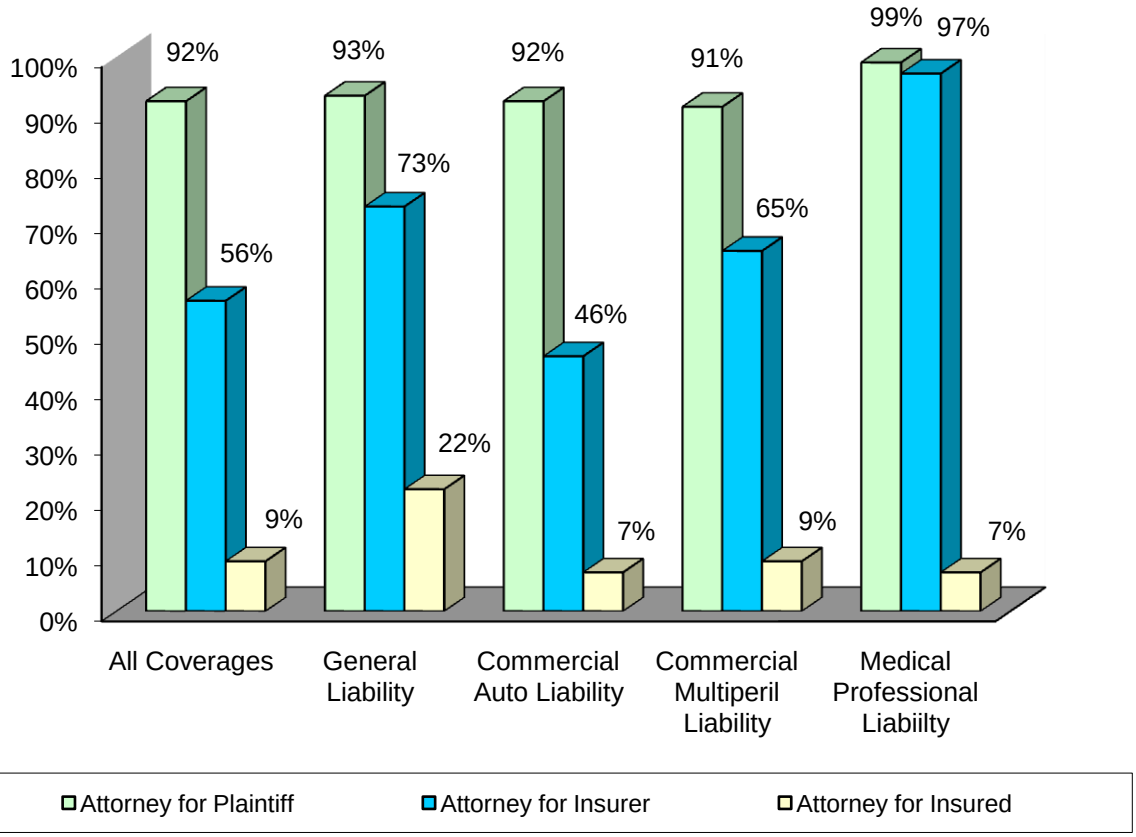
COURT VERDICT VS. SETTLEMENT AMOUNT

	Claims	Total Verdict Amount	Total Settlement Amount	Amount of Difference	Percent Difference
Verdict more than settlement	27	$27,954,824	$16,940,727	($11,014,097)	(39.4%)
Verdict equal to settlement	30	$6,976,151	$6,976,151	$0	0.00%
Verdict less than settlement	15	$2,314,711	$2,873,385	$558,674	24.10%
Total	**72**	**$37,245,686**	**$26,790,263**	**($10,455,423)**	**(28.1%)**

The data from all 7,778 reports shows that 92% of all cases indicated the involvement of an attorney on behalf of the injured person (plaintiff), while 56% indicated an attorney for the insurer, and 9% indicated the hiring of an attorney to represent the insured. Figure 24 summarizes the attorney involvement for all policy lines studied except other professional liability.

FIGURE 24

ATTORNEY INVOLVEMENT BY LINE



There were 919 multiple-defendant cases that were settled before a court verdict and 19 judgments involving multiple defendants. In 135 (15%) of the 919 cases settled prior to a court verdict, the doctrine of joint and several liability impacted the settlement. Two of the 19 judgments involving multiple defendants provided for joint and several liability in regard to any defendant.

Focusing on the doctrine of comparative responsibility, a total of 781 cases (18% of all Long Form settlements) indicate some fault attributable to the injured person. These 781 cases had a median settlement amount of $100,000 (larger than all Long Forms' median of $97,500) and, on average, estimated the injured person to be 38% at fault.

Generally, Texas law allows a plaintiff to bring suit in one of several counties (See Chapter 15, *Texas Civil Practice and Remedies Code*). Figure 25 presents the relationship of the suits involving choice of venue by line of insurance.

FIGURE 25

CHOICE OF VENUE
BY LINE OF INSURANCE

Line of Insurance	Total Number of Suits Filed	Number of Suits Filed in County Other Than Where Injury Occurred	Percent of Total
General Liability	753	63	8.4%
Commercial Auto	2,268	273	12.0%
Commercial Multi-peril	450	31	6.9%
Medical Professional	521	29	5.6%
Other Professional	36	3	8.35%
All Lines	**4,028**	**399**	**9.9%**

A total of 4,028 forms reported that suits were filed, with 3,629 filed in the county of injury; meanwhile, 399 forms indicated that the suit was filed in a county other than the county where the injury occurred. The median settlement amount in the 3,629 cases was $75,000, while the median settlement amount in the remaining 399 cases was $99,000. Figure 26 on the next page shows the counties with an influx of five or more lawsuits.

FIGURE 26

CHOICE OF VENUE
COUNTIES THAT GAINED FIVE OR MORE LAWSUITS

County	Number of Suits Filed	Number of Suits Incoming	Percent of Suits Incoming	Median Settlement Amount of Suits Filed in County Listed
Dallas	448	67	15.0%	$65,000
Harris	787	50	6.4%	$75,000
Bexar	264	28	10.6%	$75,000
Hidalgo	218	20	9.2%	$75,000
Tarrant	221	20	9.0%	$75,000
Travis	150	16	10.7%	$66,000
Nueces	117	13	11.1%	$75,000
Jefferson	120	11	9.2%	$77,284
Webb	48	10	20.8%	$95,000
Galveston	65	9	13.8%	$100,000
Jim Wells	20	9	45.0%	$72,510
Harrison	25	8	32.0%	$230,000
Wise	23	8	34.8%	$196,384
Brazoria	51	7	13.7%	$95,000
Counties Listed	2,557	276	10.8%	$75,000
Counties Not Listed	1,471	123	8.4%	$80,000
All Counties	**4,028**	**399**	**9.9%**	**$75,000**

Comparative Analyses

Figure 27 shows the time comparison between single-party and multi-party cases. As expected, the multi-party cases take longer to close than the single-party cases.

FIGURE 27

ALL LINES TIME STUDY
BY PARTY (MONTHS)

Category	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
Single-Party	6,799	$628,081,193	3.5	19.1	2.1	24.7
Multi-Party	979	$215,142,238	16.8	27.6	4.0	48.4
All Parties	**7,778**	**$843,223,431**	**5.2**	**20.1**	**2.3**	**27.6**

Figure 28 shows time comparisons among various lines of insurance. The data for other professional liability is included with general liability due to only 58 claims being reported for this line of insurance. Medical professional liability cases involve the longest average span of time (50.0 months) from the date of injury to the actual closing of the claim.

FIGURE 28

ALL LINES TIME STUDY
BY POLICY TYPE (MONTHS)

	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
General Liability	1,142	$143,443,434	17.9	22.0	5.5	45.4
Commercial Auto	5,310	$520,862,131	1.0	18.4	1.7	21.1
Commercial Multiperil	749	$80,051,222	6.5	21.8	2.0	30.3
Medical Professional	577	$98,866,644	16.9	30.4	2.7	50.0
All Claims	**7,778**	**$843,223,431**	**5.2**	**20.1**	**2.3**	**27.6**

Figure 29 on the next page displays the average times for each injury type. Of the studies based on type of injury, those involving respiratory condition, on average, took the longest time from injury to close (197.7 months), which is more than six times the average of 32.6 months for all Long Form claims. The total payments column for all Long Forms does not equal to the subtotal of the separate injury types because the Long Form allows for multiple selections of injury type.

FIGURE 29

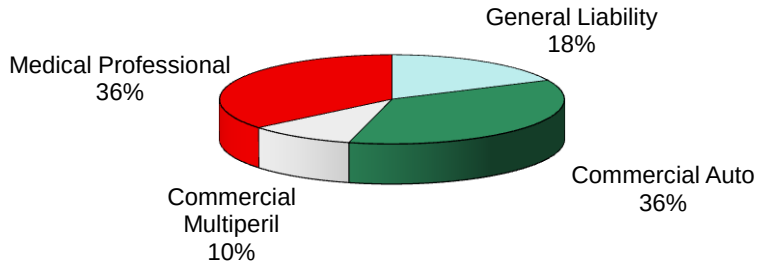
ALL LONG FORMS TIME STUDY
BY INJURY TYPE (MONTHS)

Injury Type	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
Death	557	$186,325,727	13.0	24.9	3.5	41.4
Amputation	53	$18,927,988	7.8	29.6	3.2	40.6
Burns (heat)	58	$15,119,731	7.5	19.8	3.8	31.1
Burns (chemical)	9	$1,287,747	8.8	17.0	3.8	29.6
Systemic Poisoning (toxic)	8	$1,241,966	67.5	44.8	11.1	123.4
Systemic Poisoning (other)	15	$1,899,935	14.6	21.7	3.2	39.5
Eye injury (blindness)	27	$6,569,626	8.9	26.7	4.6	40.2
Respiratory condition	36	$7,899,857	139.8	35.9	22.0	197.7
Nervous condition	23	$6,496,372	4.0	22.2	3.9	30.1
Hearing loss/impairment	16	$5,603,825	7.6	34.2	1.6	43.4
Circulatory condition	23	$4,932,350	7.3	28.3	4.0	39.6
Multiple injuries	1,502	$272,794,686	2.3	22.6	2.4	27.3
Back injury	1,701	$211,143,713	2.0	22.8	2.1	26.9
Skin disorder	4	$625,000	4.5	24.5	6.8	35.8
Brain damage	132	$74,475,290	8.8	26.8	5.0	40.6
Scarring	155	$40,071,181	4.0	21.7	2.6	28.3
Spinal cord injuries	60	$29,669,175	6.6	23.2	4.3	34.1
Other	1,226	$162,237,726	8.0	24.2	2.1	34.3
All Long Forms	**4,443**	**$777,102,977**	**6.4**	**23.6**	**2.6**	**32.6**

Injury type is only reported on the Long Form. There were 557 injuries (13%) reported on the Long Form that resulted in death. As shown in figure 30, medical professional liability claims account for 36% of the death claims, commercial auto liability for 36%, general liability for 18%, and commercial multi-peril liability for 10%.

FIGURE 30

DEATH CLAIMS
BY LINE OF INSURANCE



Of the 4,443 settlements reported on Long Forms, 622 claims indicated work-related injuries. On a percentage basis, the business classification of oil wells & drilling indicated the highest rate of work-related injuries with 30.8% of the claims relating to the job, followed by construction firms at 28.1% and other products manufacturers with 22.6% of the claims reported as work-related. Figure 31 shows data for the business classifications with more than 20 work-related injuries.

FIGURE 31

WORK-RELATED INJURIES
BY BUSINESS CLASSIFICATION

Business Classification	Work-Related Claims	Percent Work-Related	Average Payment	Claim Duration (Months)	Injury to Close (Months)
Transportation	145	12.1%	$233,996	24.2	30.0
Other	125	14.3%	$240,834	24.0	42.9
Construction firms	124	28.1%	$264,877	23.9	36.9
Wholesale-retail trade	63	10.3%	$233,654	27.2	35.1
Oil wells & drillings	53	30.8%	$252,831	21.1	33.8
Other products manufacturers	42	22.6%	$428,517	24.6	72.0
All Business Classes	**622**	**14.0%**	**$247,277**	**24.7**	**44.5**

The 2009 closed claim report data contains 387 claims involving the business classifications of drug manufacturers, manufacturers of chemical and allied products, medical products manufacturers, and other products manufacturers. The average payment for product liability claims of $149,219 was 38% more than the average of $108,411 for all lines. The average allocated loss adjustment expense for product liability claims of $42,563 was more than the average of $24,653 for all lines. The claims are categorized in this section as product liability claims, but are not necessarily caused by use of a defective product. Figure 32 presents the average claim information derived from the product liability claims reported.

FIGURE 32

PRODUCT LIABILITY
AVERAGE CLAIM

	Payment Amount	Final Indemnity Reserve	ALAE	Final Expense Reserve	Claim Duration (Months)
Product Liability	$149,219	$173,706	$42,563	$30,348	22.1
All Forms	**$108,411**	**$131,803**	**$24,653**	**$21,310**	**20.1**

Only 203 settlements indicated municipal/public liability as the insured business classification. Data derived from these reports show the average payment amount to be $55,513, which is 49% less than the average of $108,411 for all forms. Figure 33 presents the average claim information for municipal/public liability claims reported.

FIGURE 33

MUNICIPAL/PUBLIC LIABILITY
AVERAGE CLAIMS

	Payment Amount	Final Indemnity Reserve	ALAE	Final Expense Reserve	Claim Duration (Months)
Municipal Liability	$55,513	$65,694	$16,288	$16,469	19.4
All Forms	**$108,411**	**$131,803**	**$24,653**	**$21,310**	**20.1**

2009 Calendar Year
Annual Aggregate Closed Claim Report

The Calendar Year Annual Aggregate Closed Claim Report was filed on two separate Reports in 2009 due to the change in the thresholds of reporting as per House Bill 2877, enacted by the 81st Texas Legislature, effective September 1, 2009.

Annual Aggregate Closed Claim Report – Form A – filed for bodily injury indemnity payments which closed BEFORE 09/01/2009 for $0 to $10,000.

Annual Aggregate Closed Claim Report – Form B – filed for bodily injury indemnity payments which closed ON 09/01/2009 OR AFTER for $0 to $25,000.

Three hundred thirty-five insurance companies and seven self-insured entities are included in the Annual Aggregate Closed Claim Database. A summary of the Aggregate Closed Claim Report Form A is presented below. A summary of the Aggregate Closed Claim Report Form B is on the next page.

ANNUAL AGGREGATE CLOSED CLAIM REPORT – FORM A
INDEMNITY PAYMENTS CLOSED BEFORE 09/01/2009 FOR $0 TO $10,000

	(1) Aggregate Number of Claims $ 0 Indemnity Payments	(2) Aggregate Number of Claims $1 to $10,000 Indemnity Payments	(3) Total Number of Claims (1 + 2)	(4) Aggregate Dollar Amount Paid Out
General Liability	13,331	1,434	14,765	$4,534,476
Other Professional Liability	370	49	419	$173,867
Commercial Auto Liability	10,848	8,851	19,699	$30,605,984
Commercial Multi-peril Liability	5,167	1,625	6,792	$4,735,287
Medical Professional Liability	1,942	73	2,015	$374,708
Total	**31,658**	**12,032**	**43,690**	**$40,424,322**

ANNUAL AGGREGATE CLOSED CLAIM REPORT – FORM B
INDEMNITY PAYMENTS CLOSED ON 09/01/2009 OR AFTER FOR $0 TO $25,000

	(1) Aggregate Number of Claims $ 0 Indemnity Payments	(2) Aggregate Number of Claims $1 to $25,000 Indemnity Payments	(3) Total Number of Claims (1 + 2)	(4) Aggregate Dollar Amount Paid Out
General Liability	4,705	813	5,518	$3,737,309
Other Professional Liability	113	42	155	$419,273
Commercial Auto Liability	4,955	4,930	9,885	$28,880,972
Commercial Multi-peril Liability	2,876	1,015	3,891	$5,680,139
Medical Professional Liability	1,009	67	1,076	$777,728
Total	**13,658**	**6,867**	**20,525**	**$39,495,421**

2009 Closed Claim Reconciliation Form

The Texas Department of Insurance required companies to submit a Reconciliation Form for calendar year 2009 to ensure that all applicable closed claims were reported. The payments reported on Quarterly Closed Claim Reports (Short and Long Forms) and the Aggregate Closed Claim Reports – Form 2A and Form 2B, were compared to the direct losses paid by line of insurance. These losses were reported to the National Association of Insurance Commissioners (NAIC) on the 2009 Annual Statement, Texas Statutory Page 14. **Self-insured entities did not complete a Reconciliation Form and therefore, are not included in this section.**

There were 537 insurance companies that reported a total of $2,236,785,359 direct losses paid on the 2009 Annual Statement, Texas Statutory Page 14 for the lines of business mentioned in §§38.151, Texas Insurance Code. Thirty-nine percent (39%) of the direct losses paid for general liability, commercial auto liability, Texas commercial multi-peril liability, and medical professional liability were reported on closed claim reports. The remaining $1,362,755,568 of direct losses paid involved amounts that were not reported during calendar year 2009 on closed claim reports. The following chart summarizes the information from the Reconciliation Forms. The data allows a comparison to be made by line of insurance between payment amounts that are required to be reported under §§38.151 – 38.163 of the Texas Insurance Code and payments made during calendar year 2009 that are not reportable on closed claim reports. General liability and other professional liability are combined on the Reconciliation Form.

Line 1 of the Reconciliation Form shows the amount of claims reported for each line of insurance on the Closed Claim Report of Accepted Transactions at the beginning of the reconciliation project.

Line 2A and 2B of the Reconciliation Form indicates the amount of claims as shown on the Aggregate Closed Claim Report Form 2A and Form 2B.

Line 3 is the subtotal of lines 1, 2A and 2B of the closed claim Reconciliation Form.

Lines 4 and 5 consist of payments that did not involve bodily injury. These payments were mainly for property damage losses, but also included amounts for medical payments, personal injury protection, uninsured and underinsured motorist payments, professional liability, and payments on claims involving mental anguish, improper termination, libel, slander, etc.

Lines 6 and 7 include payments made on open claims that will not be reported until the claim closes and payments made in preceding calendar years.

Line 8 shows the excess payments by line of business as reported on the Reconciliation Forms. Excess payments on bodily injury are part of the settlement amount of a claim. Many insurance companies do not know the amount paid by an excess carrier and therefore, do not report it correctly in the settlement amount on a closed claim report. This is a major reason for reporting the 2009 Closed Claim Annual Report on a payment basis instead of a settlement basis.

Only claims settled under Texas law are reportable on the closed claim reports. **Line 9** shows direct losses paid by line of insurance on policies written in Texas for claims that were not settled under Texas law. Included for comparison purposes on **Line 10** are the amounts reported on closed claim reports for policies written in another state where the claim was settled under Texas law.

On **Line 12**, the Reconciliation Form shows $24,958,351 for total reimbursements received. This was primarily deductibles recovered for liability and property damage claims.

Adjustments made due to company rounding and estimating procedures are shown on **Line 13.**

Line 14 relates primarily to losses from catastrophes and class action suits that involve more than ten claimants.

Line 15 shows the amount of claims that companies were unable to reconcile during the reconciliation process.

Line 16 shows the amount of claims that were on the Closed Claim Report of Unaccepted Transactions at the beginning of the reconciliation process.

Line 17 and 18 are losses moved to or from a Texas closed claim report to another line of insurance or company.

Losses reported on Quarterly Closed Claim Reports received during the reconciliation process are shown on **Line 19.**

Lines 20 and 21 indicate the amount of direct losses paid for each line of insurance as shown on the 2009 Annual Statement, Texas Statutory Page 14.

TEXAS CLOSED CLAIM RECONCILIATION FOR CALENDAR YEAR 2009

TOTALS FOR ALL 537 COMPANIES

	General Liability	Commercial Auto	Commercial Multi-peril	Medical Professional	TOTAL
1. Payments Included in Quarterly Closed Claim Reports from the ATL	$125,428,817	$438,241,050	$67,420,624	$61,196,140	$692,286,631
2A. Payments reported on Annual Aggregate Closed Claim Report-Form 2A	$4,565,828	$29,438,955	$4,735,287	$218,194	$38,958,264
2B. Payments reported on Annual Aggregate Closed Claim Report-Form 2B	$3,983,690	$28,051,018	$5,680,139	$408,512	$38,123,359
3. Total Closed Claim Payments Reported	$133,978,335	$495,731,023	$77,836,050	$61,822,846	$769,368,254
ADJUSTMENTS TO LINE 3					
4. Property damage losses paid	$272,184,913	$203,096,445	$69,852,569	$0	$545,133,927
5. Other losses reported on *TX Statutory Page 14* that did not entail bodily injury	$353,394,600	$57,410,284	$19,010,808	$2,083,200	$431,898,892
6. Payments on claims not closed in calendar year 2009	$85,357,578	$106,925,681	$23,755,042	$15,421,685	$231,459,986
7. Payments made prior to Jan. 1 on claims closed during the year 2009	($27,148,935)	($77,701,187)	($15,081,871)	($11,244,545)	($131,176,538)
8. Excess coverage payments not reportable on Quarterly Closed Claim Reports	$209,256,249	$15,851,929	$1,881,485	$456,850	$227,446,513
9. Losses paid on claims not settled under Texas law	$128,770,102	$62,593,664	$8,403,326	$574,581	$200,341,673
10. Payments on claims reported on policies written in another state	($20,689,639)	($59,591,017)	($4,661,466)	($1,650,476)	($86,592,598)
11A. Pymts of $10,000 or less that were reported on Quarterly reports	($10,908)	($185,693)	($25,750)	($112)	($222,463)
11B. Pymts of $25,000 or less that were reported on Quarterly reports	($6,768)	($295,858)	($100,500)	($12,500)	($415,626)
12. Reimbursements received	($11,365,104)	($9,207,805)	($4,182,105)	($203,337)	($24,958,351)
13. Rounding and Statistical Adjustments	($439,847)	($217,600)	$368,277	($46,283)	($335,453)
14. Unusual Circumstances	$7,871,085	$0	$0	$0	$7,871,085
15. Unreconciled amounts	$1,355,767	($1,168,656)	($627,343)	$2,898,581	$2,458,349
16. Payments for claims on the Closed Claim Report of Unaccepted Transactions	$2,028,451	$729,500	$452,689	$49,000	$3,259,640
17. Closed Claim subtractions	($44,092,097)	($64,459,997)	($33,130,659)	($5,360,285)	($147,043,038)
18. Closed Claim additions	$23,619,572	$31,793,362	$26,847,767	$3,200,750	$85,461,451
19. Late Quarterly Closed Claim Reports	$24,113,896	$77,975,195	$17,885,055	$2,855,510	$122,829,656
20. Sum of lines 3 through 19, (Must equal line 21)	$1,138,177,250	$839,279,270	$188,483,374	$70,845,465	$2,236,785,359
21. *Annual Statement Texas Statutory Page 14,* DIRECT LOSSES PAID	**$1,138,177,250**	**$839,279,270**	**$188,483,374**	**$70,845,465**	**$2,236,785,359**

Additional Information

The data used for developing this report is available on TDI's website.

Visit TDI's website at www.tdi.state.tx.us

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