The 2008 Texas Liability Insurance Closed Claim Annual Report

Texas Department of Insurance

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Background

This is the twenty-first 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; the short form relating to liability claims closed with bodily injury indemnity settlements over $10,000 but less than $25,000; and the long form which relates to those claims with settlements of $25,000 or more.

TDI collects the forms on a quarterly basis and reviews the forms manually and electronically to monitor data quality. Insurers submitted 9,009 reports for claims that closed in 2008. These claim reports account for over $1.4 billion in paid settlements.

Introduction

The data utilized in the preparation of this report include 9,009 commercial liability closed claims involving bodily injury settled under Texas law that were submitted for calendar year 2008 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 2008 quarterly closed claim database includes claims from 308 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 9,009 forms available for the preparation of this report, 3,905 were short forms that are defined as claims with bodily injury settlements of greater than $10,000 but less than $25,000. Long forms accounted for the other 5,104 claims and include bodily injury settlements of $25,000 or more. Although they account for 43% of all reports, only 6% of the total payments were reported on the short forms as illustrated in Figure 1.

FIGURE 1

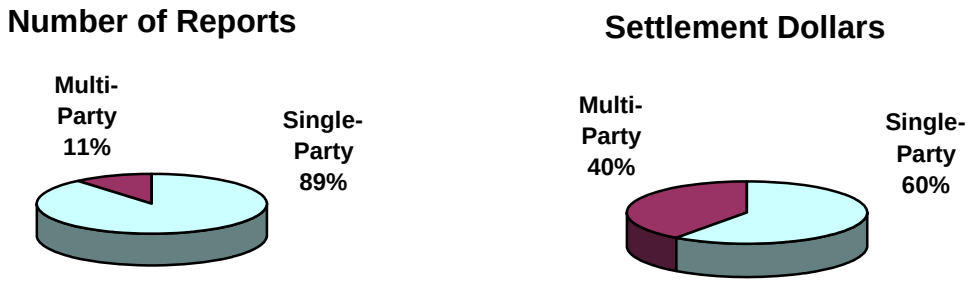
SHORT FORM VS. LONG FORM

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 11% of the 2008 reports and 40% 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. Although single-party claims make up the majority of all claim reports, the majority of settlement dollars come from multi-party claims.

FIGURE 2

SINGLE-PARTY VS. MULTI-PARTY



Payments and Expenses

A total of $1,425,573,224 in settlements from 9,009 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

2008 CLOSED CLAIM DATA BASE SUMMARY

Contributing Parties	Claims	Amount Paid
Primary carrier	8,139	$860,508,566
Insured due to deductible	1,231	$89,880,354
Insured in excess of policy limits	25	$8,850,333
Excess carrier	140	$196,240,646
Other insured defendants	536	$260,076,242
Other uninsured defendants	57	$10,017,083
Total settlement	**9,009**	**$1,425,573,224**

Figure 4 shows the average payment amount for all claims was $95,517. The single-party average claim payment was $81,386 as compared to the multi-party average claim payment of $207,429.

FIGURE 4

THE AVERAGE 2008
COMMERCIAL LIABILITY CLAIM
SINGLE-PARTY VS. MULTI-PARTY

Average	Single-Party	Multi-Party	All Forms
Payment Amount	$81,386	$207,429	$95,517
Final Indemnity Reserve	$102,737	$284,387	$123,101
Allocated Loss Adjustment Expense	$21,191	$93,248	$29,269
Final Expense Reserve	$11,930	$84,496	$20,066
Claim Duration (Months)	18.0	26.6	19.0

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 16% of claims reported, they account for over 72% 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

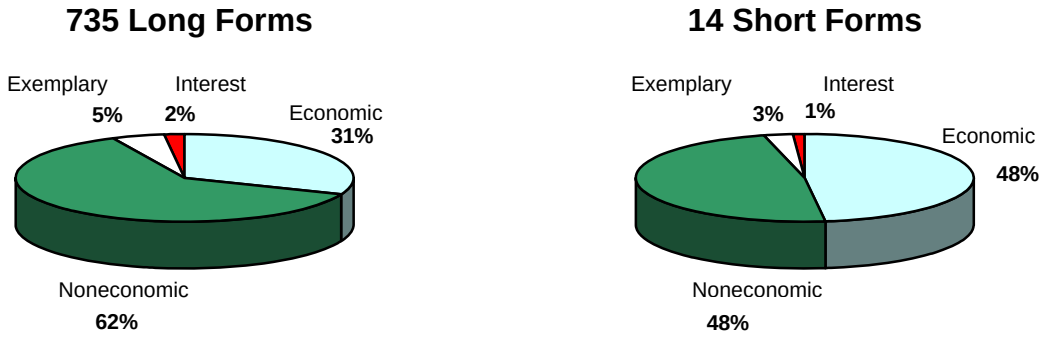
Payment Range	Single-Party	Multi-Party	Total
$10,000 and less	862	57	919
$10,001 - $24,999	3,423	79	3,502
$25,000 - $74,999	2,022	316	2,338
$75,000 - $149,999	675	178	853
$150,000 - $299,999	499	187	686
$300,000 - $499,999	241	79	320
$500,000 - $999,999	205	70	275
$1,000,000 and over	72	44	116
All Payments	**7,999**	**1,010**	**9,009**

If the settlement was $25,000 or greater, adjusters were asked for their opinions as to whether the settlement was influenced by non-economic losses, exemplary damages or prejudgment interest. For the 735 long forms that indicated the categories of non-economic losses, exemplary damages or prejudgment interest influenced the settlement of the claim, 31% of the damages were designated to economic losses, 62% to non-economic losses, 5% to exemplary damages, and 2% 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 14 settlements of less than $25,000 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 5,104 long forms indicates the use of structured settlements in the final resolution of 269 indemnity claims (5%). These structured settlements amounted to $225,675,862 with an average settlement amount of $838,944 and a median settlement amount of $375,000. In these 269 cases, the immediate payment was on average 66% of the total settlement amount, while the structured portion was 34% of the total settlement amount.

Of the 5,104 long forms, 1,928 (38%) 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	663
Medical Insurance	921
Disability Insurance	46
Social Security Benefits	60
Medicare, Medicaid	437
Sick Leave	34
Other	89

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 4,222 forms indicate no allocated loss adjustment expense for the claim reported.

One of the three categories of expense was shown on the other 4,787 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

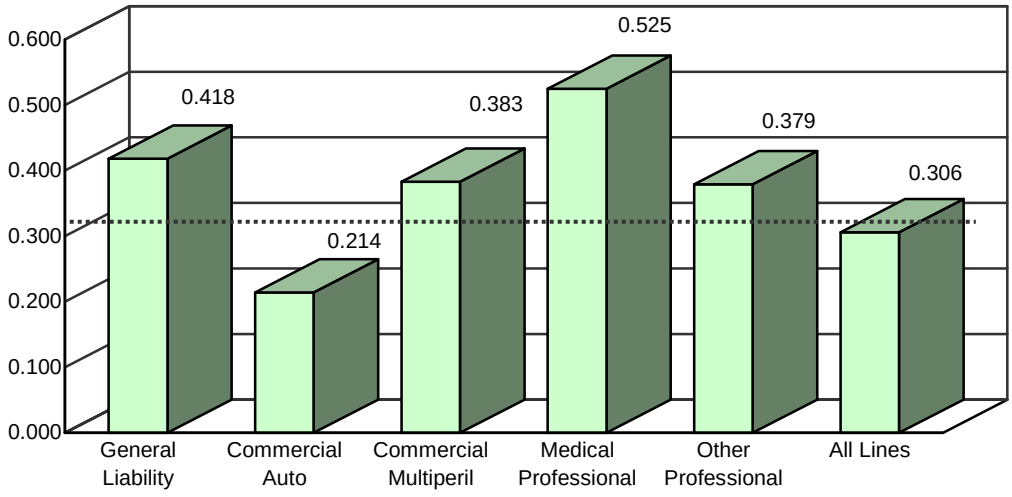
RATIO OF ALAE TO CLAIM PAYMENT BY ALAE RANGE

ALAE Range	Claims	Average Payment	ALAE/Payment Ratio
$0	4,222	$36,861	0.000
$1 - $ 2,999	835	$59,134	0.018
$3,000 - $ 5,999	455	$67,070	0.066
$6,000 - $ 9,999	459	$82,307	0.096
$10,000 - $24,999	1,198	$112,642	0.147
$25,000 - $49,999	822	$158,135	0.224
$50,000 and over	1,018	$316,577	0.646
Total	**9,009**	**$95,517**	**0.306**

The data from all forms indicates that the average allocated loss adjustment expense was 30.6% 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 0.306 is shown by a dotted line for comparison purposes.

FIGURE 9

ALAE/PAYMENT RATIO BY LINE OF INSURANCE

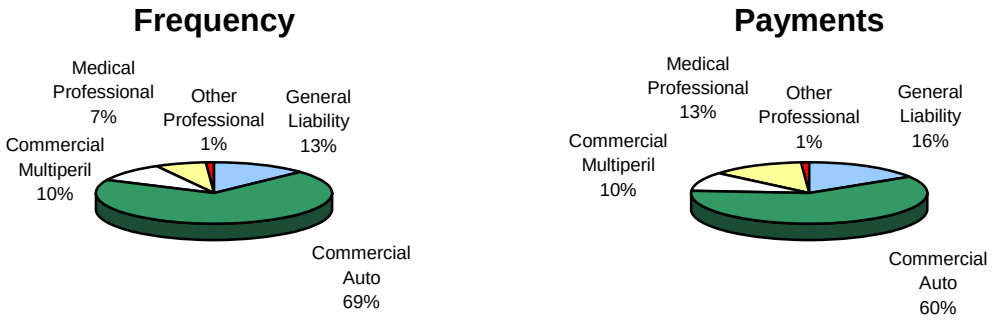


Insurance Policy Data

Commercial auto liability claims represent 69% of the closed claim reports filed and 60% of the insurer payments. General liability claims represent 13% 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 10% of the insurer payments. Medical professional liability claims represent 7% of the reports filed and 13% of the insurer payments. Other professional liability claims represent 1% of the reports filed and 1% of the insurer payments. Only 60 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

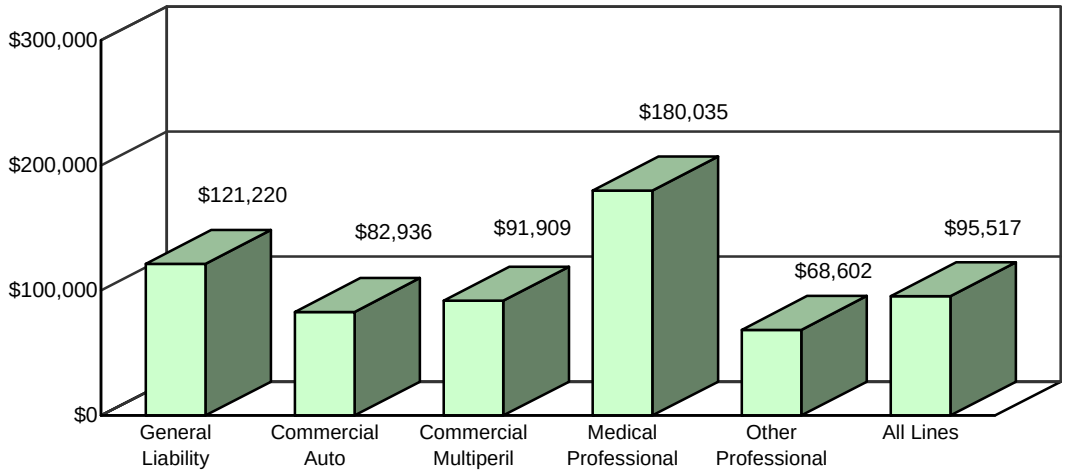
DISTRIBUTION OF CLAIMS AND CLAIM PAYMENTS BY LINE



Based on all forms from all lines, the average insurer payment is $95,517. Claims involving medical professional liability reflect the highest average with an average payment of $180,035. Other professional claims average $68,602, considerably below the average. These comparisons are illustrated in Figure 11. Note that these averages do not include settlements of $10,000 or less.

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 2008.

FIGURE 12

FREQUENCY OF CLAIMS
BY BUSINESS CLASSIFICATION

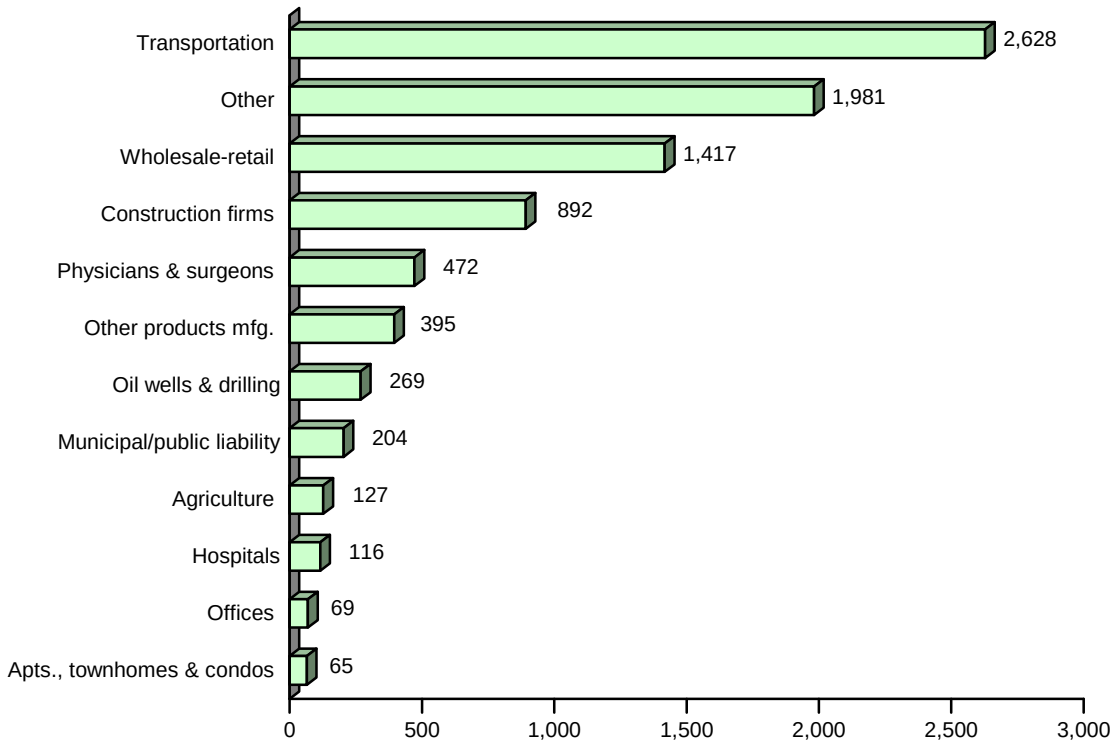
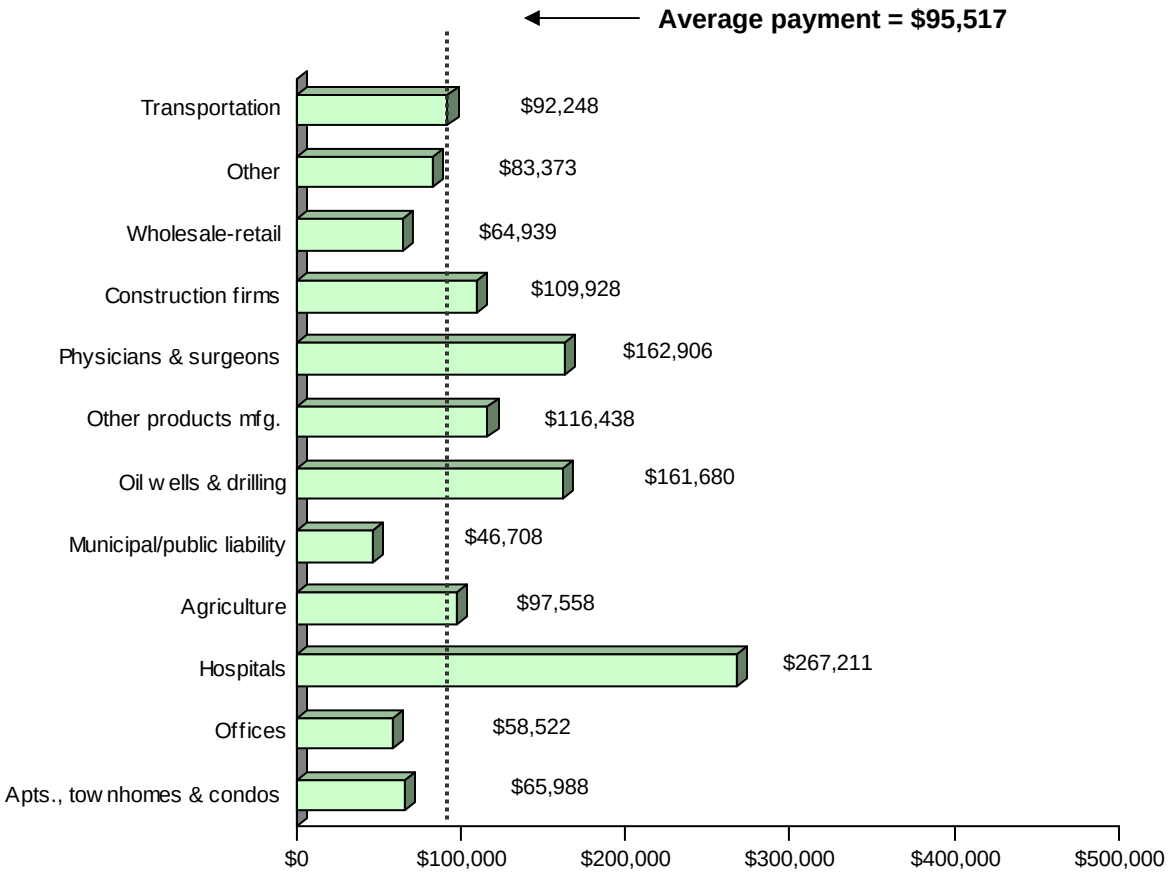


Figure 13 compares the average payment for each of the twelve major business classifications shown in Figure 12. The all lines average payment amount of $95,517 is represented by a dotted line for comparison purposes. Hospitals had an average claim payment of $267,211, the highest of the major classifications.

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 335 claims (4%) were affected by impaired or exhausted policy limits while 55 (16%) of those claims involved excess carriers. The most frequent policy limit was $1,000,000 for each line of insurance.

FIGURE 14

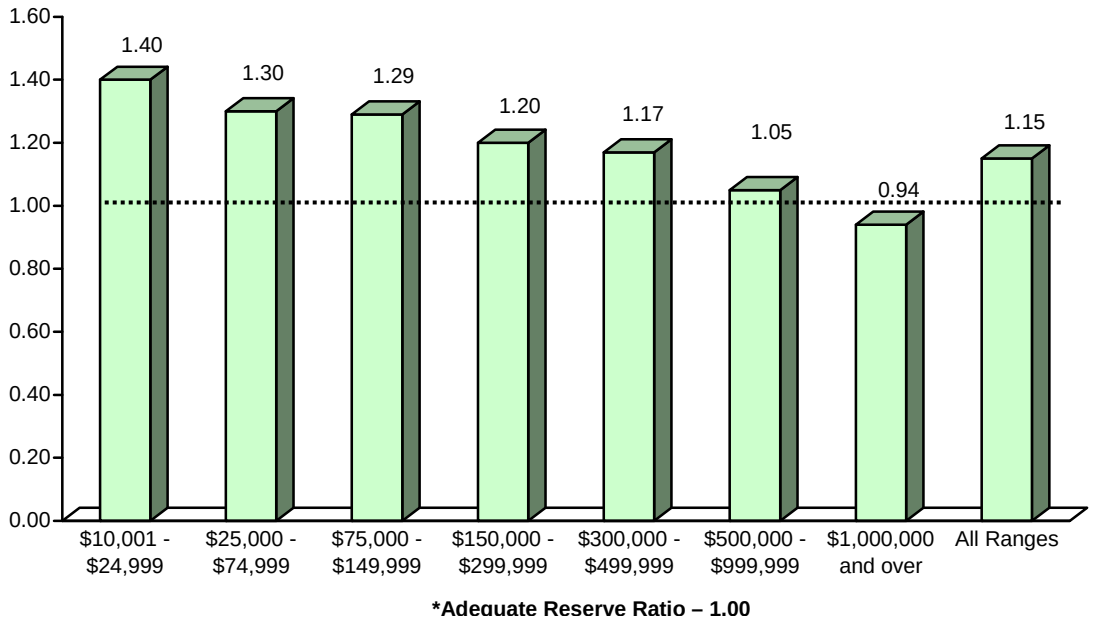
IMPAIRED OR EXHAUSTED POLICY LIMITS BY LINE OF INSURANCE

Line of Insurance	Frequency	Average Payment	Excess Coverage Involved
General Liability	41	$830,220	19
Commercial Auto	222	$335,231	27
Commercial Multi-peril	17	$783,853	9
Medical Professional	55	$244,827	0
All Lines	**335**	**$403,735**	**55**

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 $45,093 was 37% of the average expenditure of $124,786. Sixty-two percent of the claims were over-reserved by $316,856,215 (just before the claim closed) while 24% were under-reserved by $151,257,926. 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



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 5,104 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

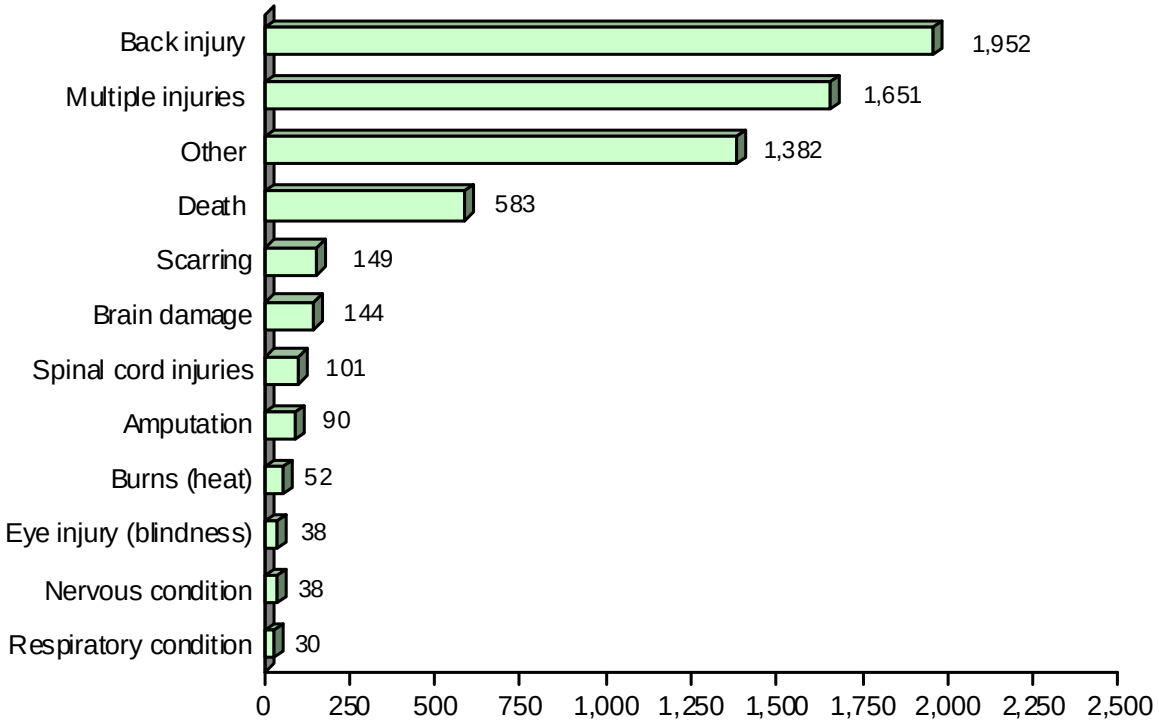
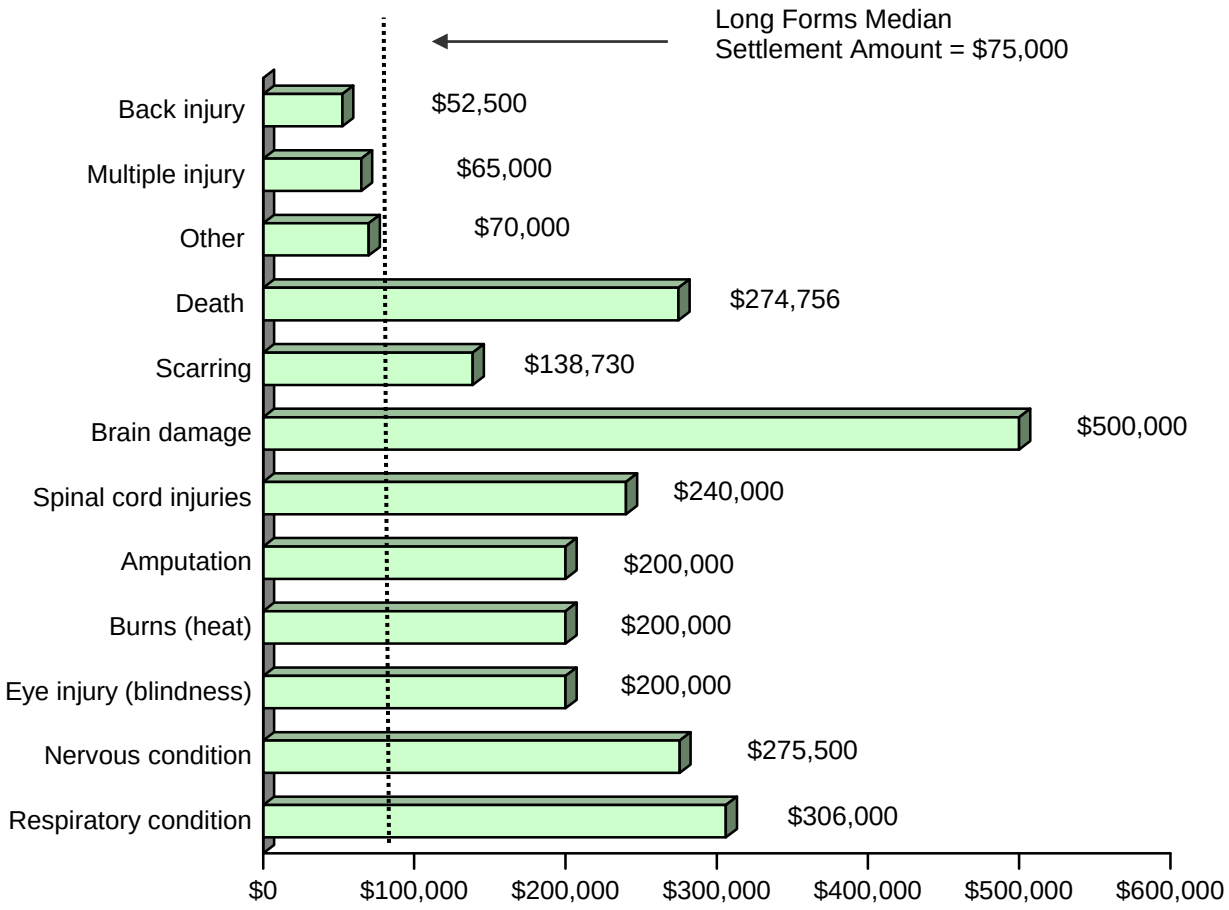


Figure 17 shows settlement amounts by injury type. Because of the possibility of duplicate reporting of injuries and the effect a large claim could have on the average claim amount, median settlement figures are used. The most costly claims closed in 2008 involved brain damage injuries.

FIGURE 17

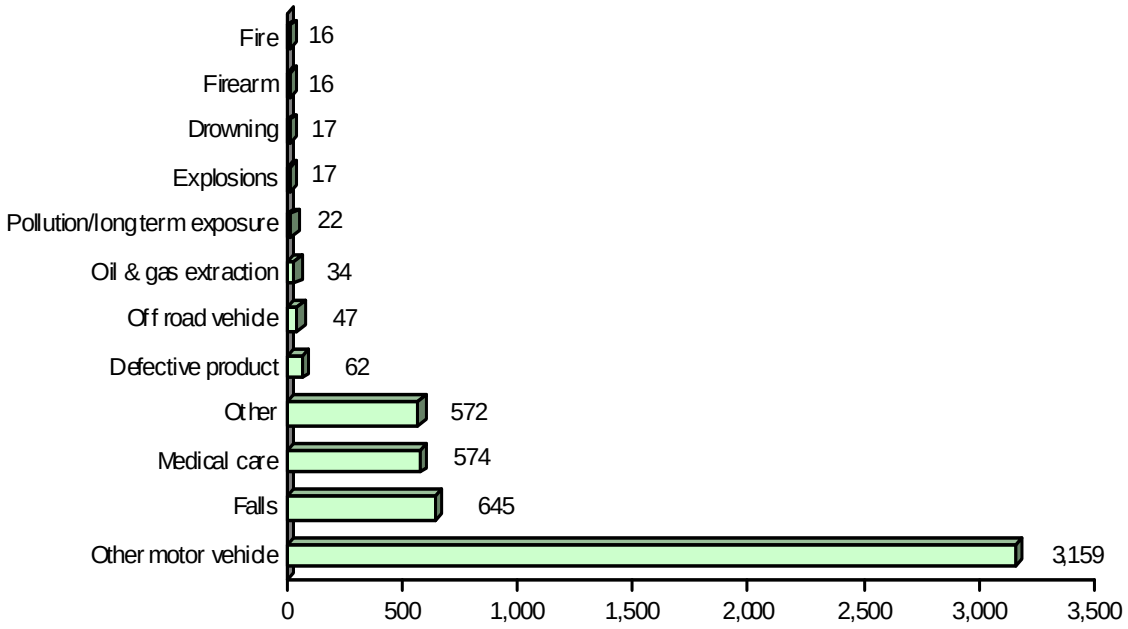
INJURY TYPE
MEDIAN SETTLEMENT AMOUNT



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

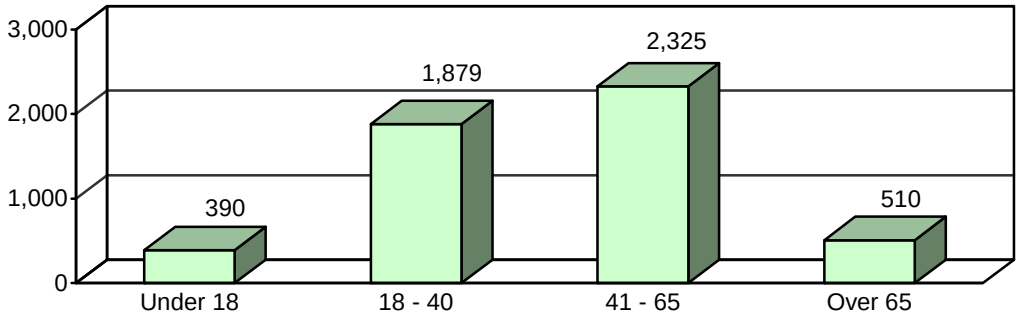
HOW THE INJURY OCCURRED
NUMBER OF CLAIMS



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 43 years.

FIGURE 19

ALL INJURIES
AGE DISTRIBUTION



There were 8,931 injuries that occurred in Texas and 78 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 36.04 claims for every 100,000 population.

FIGURE 20

WHERE THE INJURY OCCURRED

COUNTIES WITH 50 OR MORE INJURIES

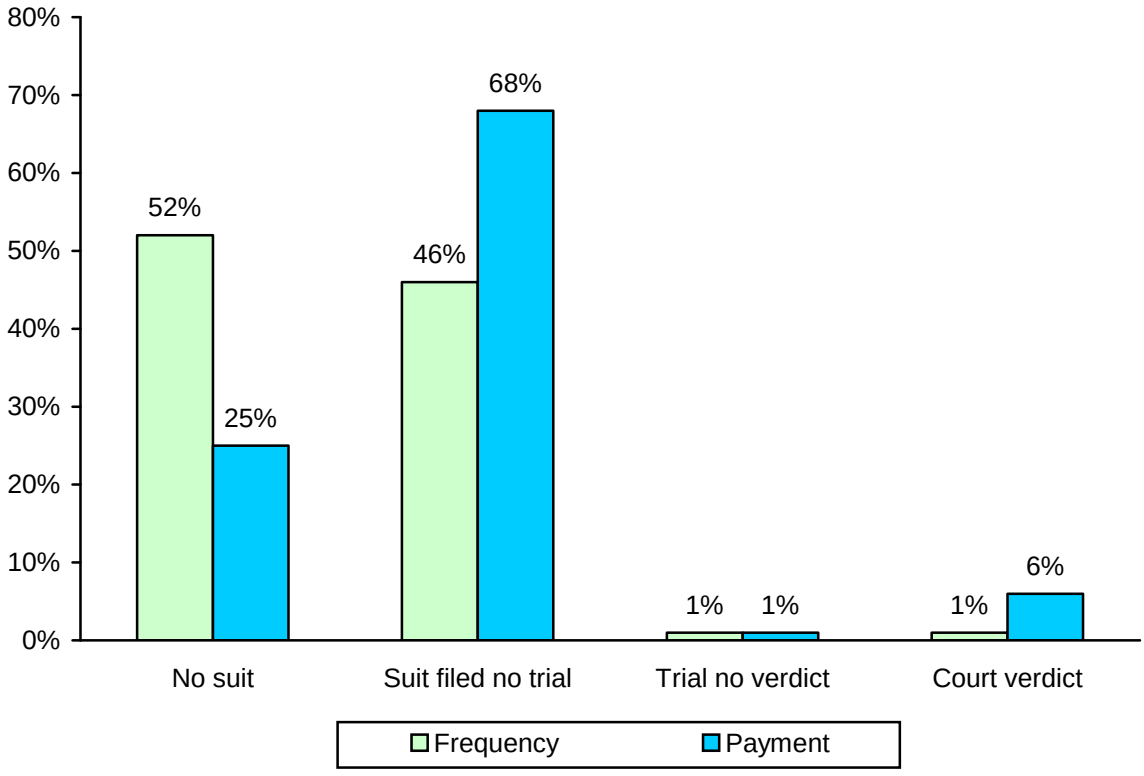
County	Number of Claims	Number of Claims/ 100,000 Population	Median Settlement Amount	Maximum Settlement Amount
Harris	1,648	41.40	$25,000	$5,150,000
Dallas	1,182	49.01	$21,000	$11,000,000
Tarrant	620	35.43	$25,000	$14,050,000
Bexar	598	36.88	$28,184	$4,900,000
Hidalgo	346	47.97	$29,375	$6,500,000
Travis	346	34.65	$27,500	$8,250,000
El Paso	211	28.57	$25,000	$4,500,000
Collin	191	25.02	$29,793	$5,150,000
Jefferson	185	76.38	$50,000	$8,725,000
Nueces	170	53.07	$40,000	$2,406,349
Denton	138	21.65	$30,000	$2,990,303
Cameron	135	34.69	$30,000	$1,225,000
Montgomery	119	27.59	$33,000	$4,000,000
Lubbock	94	35.42	$24,828	$1,500,000
Galveston	91	31.54	$35,000	$10,750,000
Gregg	91	77.34	$27,229	$6,000,000
Fort Bend	89	16.71	$30,000	$2,298,988
McLennan	89	38.55	$32,000	$4,025,880
Smith	89	44.24	$28,000	$1,225,000
Webb	84	35.60	$30,000	$2,000,000
Brazoria	74	24.57	$27,750	$5,000,000
Brazos	59	33.74	$40,550	$1,600,000
Williamson	59	14.93	$27,600	$1,000,010
Ector	57	43.45	$28,000	$3,000,000
Orange	57	68.78	$59,000	$11,300,000
Potter	50	41.27	$35,000	$1,000,000

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 79 injuries reported on 12 short forms and 67 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 77 claims that appear to be complete.

FIGURE 21

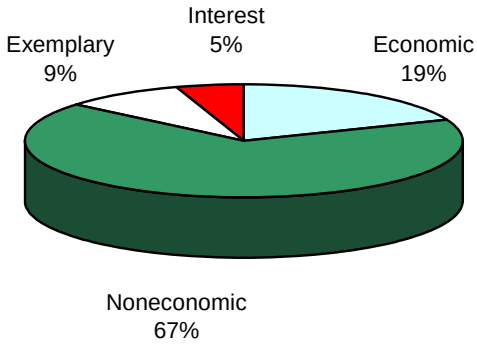
STAGES OF THE CLAIMS PROCESS



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 almost 63% before the case was finally settled.

FIGURE 23

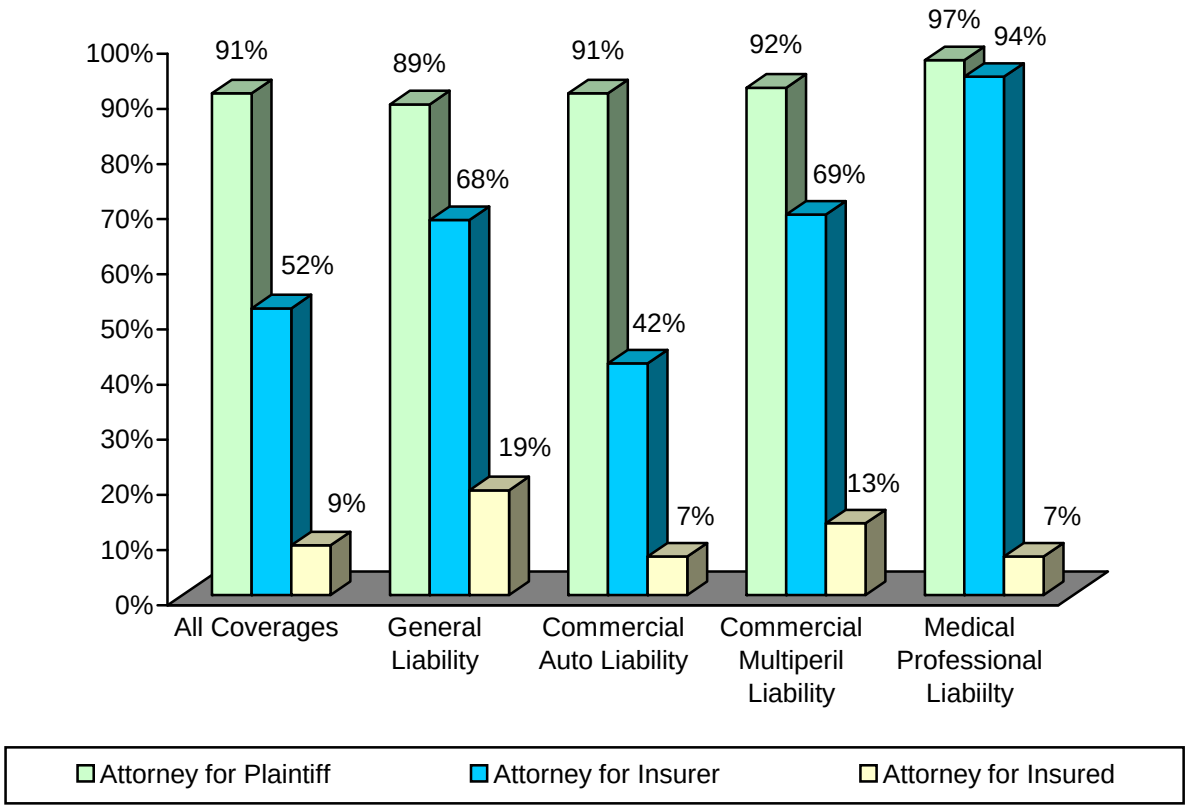
COURT VERDICT VS. SETTLEMENT AMOUNT

	Claims	Total Verdict Amount	Total Settlement Amount	Amount of Difference	Percent Difference
Verdict more than settlement	28	$130,147,366	$47,709,055	($82,438,311)	(63.3%)
Verdict equal to settlement	37	$12,739,122	$12,739,122	$0	0.0%
Verdict less than settlement	12	$17,208,744	$21,125,516	$3,916,772	22.8%
Total	**77**	**$160,095,232**	**$81,573,693**	**($78,521,539)**	**(49.0%)**

The data from all 9,009 reports shows that 91% of all cases indicated the involvement of an attorney on behalf of the injured person (plaintiff), while 52% 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 964 multiple-defendant cases that were settled before a court verdict and 22 judgments involving multiple defendants. In 136 (14%) of the 964 cases settled prior to a court verdict, the doctrine of joint and several liability impacted the settlement. Five of the 22 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 844 cases (17% of all long form settlements) indicate some fault attributable to the injured person. These 844 cases had a median settlement amount of $79,193 (larger than all long forms' median of $75,000) 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	751	86	11.5%
Commercial Auto	2,380	271	11.4%
Commercial Multi-peril	591	51	8.6%
Medical Professional	551	39	7.1%
Other Professional	36	3	8.3%
All Lines	**4,309**	**450**	**10.4%**

A total of 4,309 forms reported that suits were filed, with 3,859 filed in the county of injury; meanwhile, 450 forms indicated that the suit was filed in a county other than the county where the injury occurred. The median settlement amount in the 3,859 cases was $60,000, while the median settlement amount in the remaining 450 cases was $125,000. Figure 26 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	566	94	16.6%	$42,500
Harris	753	50	6.6%	$65,000
Hidalgo	221	27	12.2%	$60,000
Tarrant	254	25	9.8%	$67,500
Jefferson	144	22	15.3%	$111,000
Bexar	330	19	5.8%	$60,000
Travis	165	15	9.1%	$75,000
Galveston	61	13	21.3%	$58,987
Webb	56	13	23.2%	$55,000
Harrison	29	11	37.9%	$75,000
Brazoria	47	9	19.1%	$50,000
Cameron	77	9	11.7%	$66,500
El Paso	114	8	7.0%	$47,500
Nueces	105	7	6.7%	$80,000
Bell	22	6	27.3%	$45,000
Counties Listed	2,944	328	11.1%	$60,000
Counties Not Listed	1,365	122	8.9%	$75,000
All Counties	**4,309**	**450**	**10.4%**	**$65,000**

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	7,999	$651,005,203	2.3	18.0	1.8	22.1
Multi-Party	1,010	$209,503,363	15.9	26.6	3.5	46.0
All Parties	**9,009**	**$860,508,566**	**3.8**	**19.0**	**2.0**	**24.8**

Figure 28 shows time comparisons among various lines of insurance. The data for other professional liability is included with general liability due to only 60 claims being reported for this line of insurance. Medical professional liability cases involve the longest average span of time (45.9 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	1,227	$145,579,737	10.8	21.8	3.4	36.0
Commercial Auto	6,212	$515,200,457	0.8	17.2	1.6	19.6
Commercial Multiperil	941	$86,486,137	6.5	21.5	2.2	30.2
Medical Professional	629	$113,242,235	15.8	27.4	2.6	45.8
All Claims	**9,009**	**$860,508,566**	**3.8**	**19.0**	**2.0**	**24.8**

Figure 29 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 (136.9 months), which is more than four times the average of 30.4 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

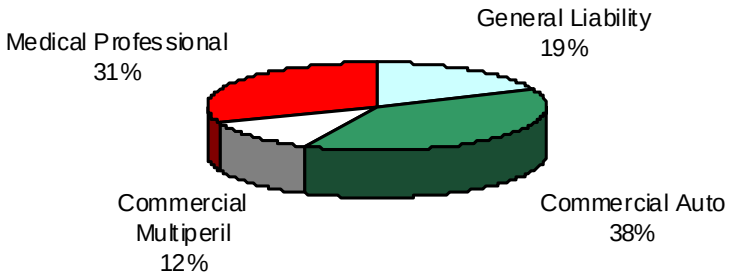
ALL LONG FORMS TIME STUDY
BY INJURY TYPE (MONTHS)

Injury Type	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
Death	583	$214,570,007	9.6	24.6	3.5	37.7
Amputation	90	$28,747,568	9.5	23.0	4.1	36.6
Burns (heat)	52	$12,935,496	7.8	26.6	3.5	37.9
Burns (chemical)	22	$4,293,926	10.8	24.4	2.0	37.2
Systemic Poisoning (toxic)	17	$1,772,198	15.2	24.7	8.5	48.4
Systemic Poisoning (other)	7	$247,500	21.4	18.1	13.7	53.2
Eye injury (blindness)	38	$10,564,803	9.1	23.2	3.2	35.5
Respiratory condition	30	$7,818,752	100.6	27.9	8.4	136.9
Nervous condition	38	$10,566,722	4.6	26.2	5.9	36.7
Hearing loss/impairment	10	$1,244,439	3.1	21.0	2.3	26.4
Circulatory condition	16	$2,756,291	13.8	20.8	2.2	36.8
Multiple injuries	1,651	$242,177,207	2.5	21.4	2.5	26.4
Back injury	1,952	$215,356,281	1.8	23.0	1.9	26.7
Skin disorder	19	$2,439,883	7.2	28.4	0.8	36.4
Brain damage	144	$56,220,391	10.5	26.8	4.2	41.5
Scarring	149	$40,030,939	3.9	19.9	2.4	26.2
Spinal cord injuries	101	$38,144,694	9.9	22.5	3.9	36.3
Other	1,382	$170,564,964	6.4	22.5	1.9	30.8
All Long Forms	**5,104**	**$806,738,004**	**5.3**	**22.7**	**2.4**	**30.4**

Injury type is only reported on the long form. There were 583 injuries (11%) reported on the long form that resulted in death. As shown in figure 30, medical professional liability claims account for 31% of the death claims, commercial auto liability for 38%, general liability for 19%, and commercial multi-peril liability for 12%.

FIGURE 30

DEATH CLAIMS
BY LINE OF INSURANCE



Of the 5,104 settlements reported on long forms, 759 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 40.5% of the claims relating to the job, followed by other products manufacturers at 30.5% and construction firms with 27.5% 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	182	13.3%	$211,242	25.5	30.4
Other	155	14.7%	$149,341	26.1	37.4
Construction firms	140	27.5%	$257,211	24.3	44.8
Oil wells & drillings	77	40.5%	$310,400	23.2	34.8
Other products manufacturers	71	30.5%	$239,120	27.3	62.3
Wholesale-retail trade	68	9.5%	$164,834	22.9	32.2
Physicians & surgeons	26	5.8%	$154,327	28.4	51.7
All Business Classes	**759**	**14.9%**	**$213,516**	**25.6**	**39.8**

The 2008 closed claim report data contains 472 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 $116,935 was 22% more than the average of $95,517 for all lines. The average allocated loss adjustment expense for product liability claims of $56,383 was more than the average of $29,269 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	$116,935	$150,326	$56,383	$35,488	21.4
All Forms	**$95,517**	**$123,101**	**$29,269**	**$20,066**	**19.0**

Only 204 settlements indicated municipal/public liability as the insured business classification. Data derived from these reports show the average payment amount to be $46,708, which is 51% less than the average of $95,517 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	$46,708	$64,580	$16,421	$16,239	19.8
All Forms	**$95,517**	**$123,101**	**$29,269**	**$20,066**	**19.0**

2008 Calendar Year
Annual Aggregate Closed Claim Report

The 2008 Calendar Year Annual Aggregate Closed Claim Report was filed on an annual basis for bodily injury indemnity payments of $10,000 or less. Three hundred thirty-seven insurance companies and seven self-insured entities are included in the Annual Aggregate Closed Claim Database. A summary of the Aggregate Closed Claim Report is presented below.

	(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	12,308	2,278	14,586	$6,882,006
Other Professional Liability	320	66	386	$166,523
Commercial Auto Liability	18,731	16,975	35,706	$56,409,706
Commercial Multi-peril Liability	7,361	2,447	9,808	$6,967,338
Medical Professional Liability	3,307	91	3,398	$424,955
Total	**42,027**	**21,857**	**63,884**	**$70,850,528**

2008 Closed Claim Reconciliation Form

The Texas Department of Insurance required companies to submit a reconciliation form for calendar year 2008 to ensure that all applicable closed claims were reported. The payments reported on Quarterly Closed Claim Reports with bodily injury over $10,000 and the Aggregate Closed Claim Reports with bodily injury of $10,000 or less 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 2008 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 524 insurance companies that reported a total of $2,220,301,942 direct losses paid on the 2008 Annual Statement, Texas Statutory Page 14 for the lines of business mentioned in §§38.151, Texas Insurance Code. Forty percent (40%) 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 $1,334,914,592 of direct losses paid involved amounts that were not reported during calendar year 2008 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 2008 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 2 of the reconciliation form indicates the amount of claims as shown on the Aggregate Closed Claim Report.

Line 3 is the subtotal of lines 1 and 2 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 2008 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 $23,760,977 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 2008 Annual Statement, Texas Statutory Page 14.

TEXAS CLOSED CLAIM RECONCILIATION
FOR CALENDAR YEAR 2008

TOTALS FOR ALL 524 COMPANIES

	General Liability	Commercial Auto	Commercial Multi-peril	Medical Professional	TOTAL
1. Payments Included in Quarterly Closed Claim Reports from the ATL	$115,933,117	$450,767,675	$72,329,337	$74,004,267	$713,034,396
2. Payments reported on Annual (Summary) Closed Claim Report	$6,687,987	$54,678,876	$6,967,338	$301,497	$68,635,698
3. Total Closed Claim Payments Reported	$122,621,104	$505,446,551	$79,296,675	$74,305,764	$781,670,094
ADJUSTMENTS TO LINE 3					
4. Property damage losses paid	$256,886,771	$206,532,937	$67,018,299	$0	$530,438,007
5. Other losses reported on *TX Statutory Page 14* that did not entail bodily injury	$291,673,962	$50,242,797	$19,727,511	$848,853	$362,493,123
6. Payments on claims not closed in calendar year 2008	$89,869,509	$116,660,286	$27,716,831	$9,868,020	$244,114,646
7. Payments made prior to Jan. 1 on claims closed during the year 2008	($40,572,428)	($82,640,473)	($16,604,706)	($16,317,100)	($156,134,707)
8. Excess coverage payments not reportable on Quarterly Closed Claim Reports	$248,279,500	$17,955,496	$347,468	$59,712	$266,642,176
9. Losses paid on claims not settled under Texas law	$145,682,337	$51,153,626	$6,950,828	$3,988,987	$207,775,778
10. Payments on claims reported on policies written in another state	($14,574,217)	($51,756,945)	($3,628,742)	($432,500)	($70,392,404)
11. Payments of $10,000 or less that were reported on Quarterly reports	($38,953)	($256,275)	($20,000)	$0	($315,228)
12. Reimbursements received	($14,423,485)	($8,042,564)	($1,293,384)	($1,544)	($23,760,977)
13. Rounding and Statistical Adjustments	($1,497,869)	($13,284,217)	($1,215,656)	($15,997)	($16,013,739)
14. Unusual Circumstances	$2,397,534	$5,547,600	$383,333	$0	$8,328,467
15. Unreconciled amounts	$2,739,569	$1,677,687	($1,312,801)	$1,504,717	$4,609,172
16. Payments for claims on the Closed Claim Report of Unaccepted Transactions	$64,000	$1,364,608	$95,761	$0	$1,524,369
17. Closed Claim subtractions	($37,995,456)	($84,481,695)	($23,627,582)	($1,797,829)	($147,902,562)
18. Closed Claim additions	$36,849,900	$47,157,255	$21,150,158	$1,277,249	$106,434,562
19. Late Quarterly Closed Claim Reports	$25,642,323	$74,164,821	$15,174,137	$5,809,884	$120,791,165
20. Sum of lines 3 through 19, (Must equal line 21)	$1,113,604,101	$837,441,495	$190,158,130	$79,098,216	$2,220,301,942
21. *Annual Statement Texas Statutory Page 14,* DIRECT LOSSES PAID	**$1,113,604,101**	**$837,441,495**	**$190,158,130**	**$79,098,216**	**$2,220,301,942**

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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