The 2005 Texas Liability Insurance Closed Claim Annual Report

Texas Department of Insurance

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Background

This is the eighteenth 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 9,211 reports for claims that closed in 2005. These claim reports account for over $1.5 billion in paid settlements.

Introduction

The data utilized in the preparation of this report include 9,211 commercial liability closed claims involving bodily injury settled under Texas law that were submitted for calendar year 2005 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 2005 quarterly closed claim database includes claims from 324 insurance companies and 5 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 9,211 forms available for the preparation of this report, 3,771 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 5,440 claims and include bodily injury settlements of $25,000 or more. Although they account for 41% of all reports, only 6% of the total payments were reported on the short forms as illustrated in Figure 1.

FIGURE 1

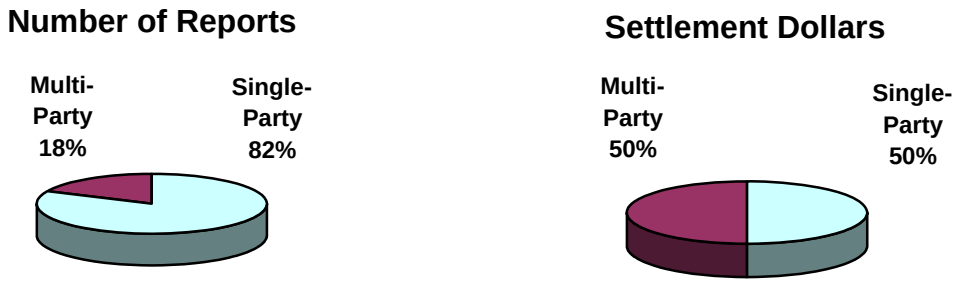
SHORT FORM VS. LONG FORM

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 18% of the 2005 reports and 50% 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 $1,506,226,321 in settlements from 9,211 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

2005 CLOSED CLAIM DATA BASE SUMMARY

Contributing Parties	Claims	Amount Paid
Primary carrier	8,694	$946,438,037
Insured due to deductible	852	$59,754,825
Insured in excess of policy limits	24	$10,265,710
Excess carrier	160	$135,413,359
Other insured defendants	824	$334,545,268
Other uninsured defendants	111	$19,809,122
Total settlement	**9,211**	**$1,506,226,321**

Figure 4 shows the average payment amount for all claims was $102,751. The single-party average claim payment was $81,855 as compared to the multi-party average claim payment of $197,664.

FIGURE 4

THE AVERAGE 2005
COMMERCIAL LIABILITY CLAIM
SINGLE-PARTY VS. MULTI-PARTY

Average	Single-Party	Multi-Party	All Forms
Payment Amount	$81,855	$197,664	$102,751
Final Indemnity Reserve	$100,916	$234,618	$125,041
Allocated Loss Adjustment Expense	$14,676	$71,294	$24,892
Final Expense Reserve	$11,005	$60,194	$19,880
Claim Duration (Months)	20.1	27.1	21.3

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 over 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

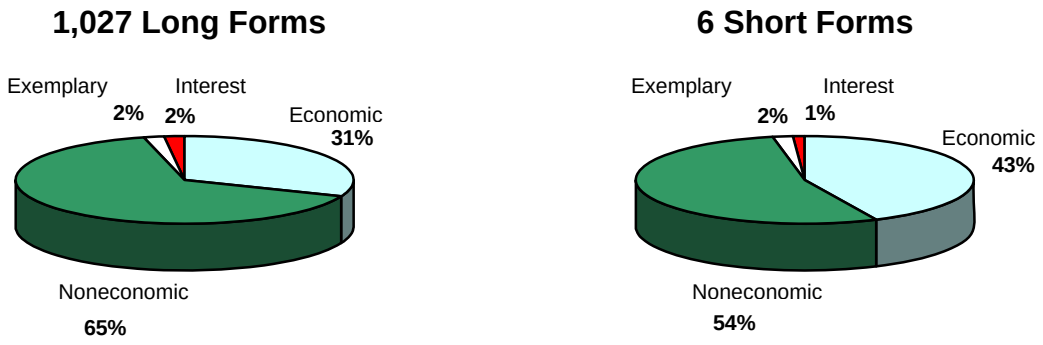
Payment Range	Single-Party	Multi-Party	Total
$10,000 and less	505	79	584
$10,001 - $24,999	3,417	158	3,575
$25,000 - $74,999	1,928	468	2,396
$75,000 - $149,999	710	320	1,030
$150,000 - $299,999	524	339	863
$300,000 - $499,999	212	131	343
$500,000 - $999,999	187	112	299
$1,000,000 and over	66	55	121
All Payments	**7,549**	**1,662**	**9,211**

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 1,027 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, 65% to non-economic losses, 2% 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 6 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 5,440 long forms indicates the use of structured settlements in the final resolution of 359 indemnity claims (7%). These structured settlements amounted to $264,193,850 with an average settlement amount of $735,916 and a median settlement amount of $350,000. In these 359 cases, the immediate payment was on average 67% of the total settlement amount, while the structured portion was 33% of the total settlement amount.

Of the 5,440 long forms, 2,082 (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	769
Medical Insurance	994
Disability Insurance	77
Social Security Benefits	65
Medicare, Medicaid	384
Sick Leave	47
Other	62

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 3,642 forms indicate no allocated loss adjustment expense for the claim reported.

One of the three categories of expense was shown on the other 5,569 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

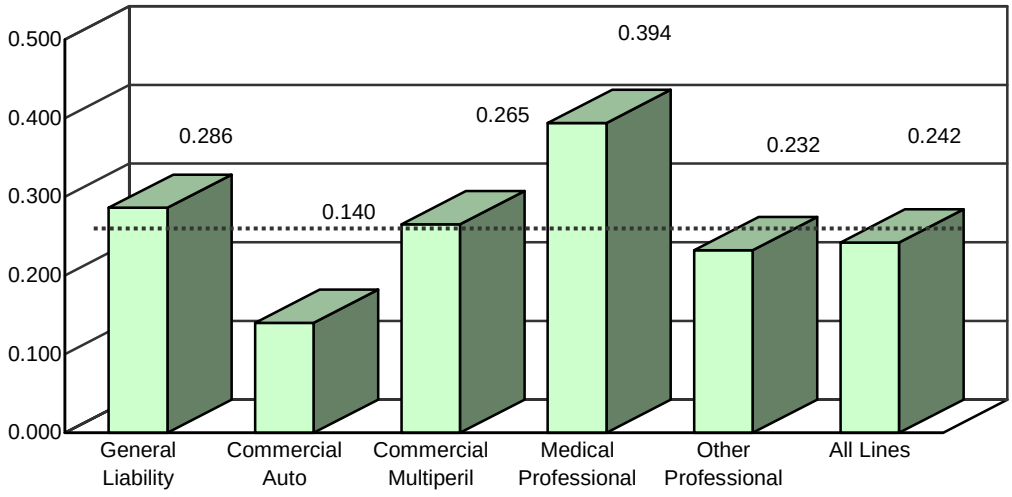
RATIO OF ALAE TO CLAIM PAYMENT BY ALAE RANGE

ALAE Range	Claims	Average Payment	ALAE/Payment Ratio
$0	3,642	$40,139	0.000
$1 - $ 2,999	850	$43,636	0.026
$3,000 - $ 5,999	508	$59,590	0.074
$6,000 - $ 9,999	610	$78,859	0.101
$10,000 - $24,999	1,285	$101,140	0.165
$25,000 - $49,999	1,007	$161,014	0.222
$50,000 and over	1,309	$299,985	0.417
Total	**9,211**	**$102,751**	**0.242**

The data from all forms indicates that the average allocated loss adjustment expense was 24.2% 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 0.242 is shown by a dotted line for comparison purposes.

FIGURE 9

ALAE/PAYMENT RATIO BY LINE OF INSURANCE

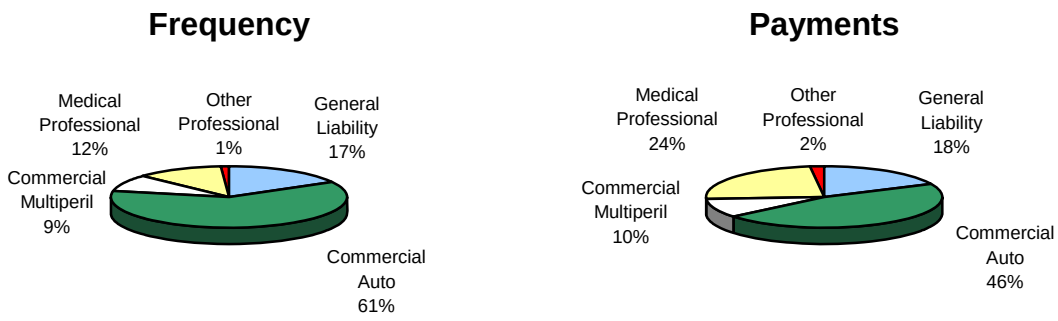


Insurance Policy Data

Commercial auto liability claims represent 61% of the closed claim reports filed and 46% of the insurer payments. General liability claims represent 17% of the closed claim reports filed and 18% of the insurer payments. Claims related to the liability portion on commercial multi-peril policies represent 9% of the reports filed and 10% of the insurer payments. Medical professional liability claims represent 12% of the reports filed and 24% of the insurer payments. Other professional liability claims represent 1% of the reports filed and 2% of the insurer payments. Only 88 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

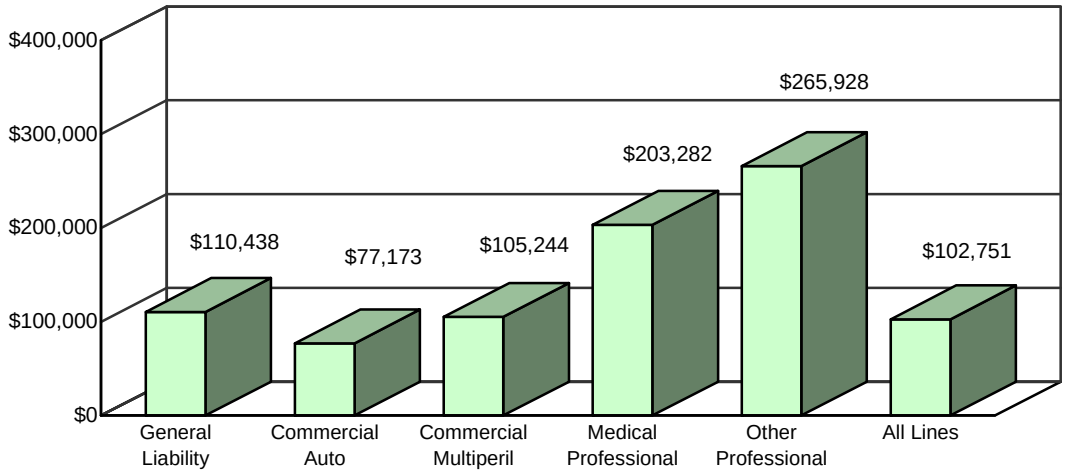
DISTRIBUTION OF CLAIMS AND CLAIM PAYMENTS BY LINE



Based on all forms from all lines, the average insurer payment is $102,751. Claims involving other professional liability reflect the highest average with an average payment of $265,928. Commercial auto claims average $77,173, 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 95% of the total reported claims and nearly 95% of the total payments reported for calendar year 2005.

FIGURE 12

FREQUENCY OF CLAIMS
BY BUSINESS CLASSIFICATION

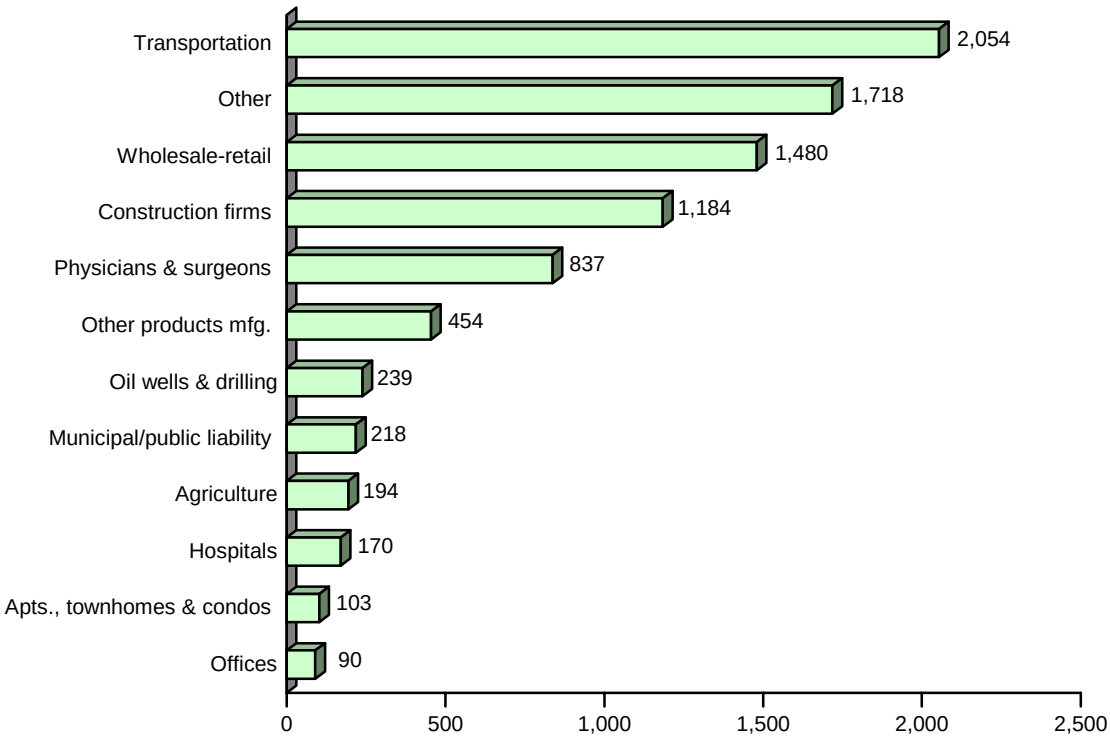
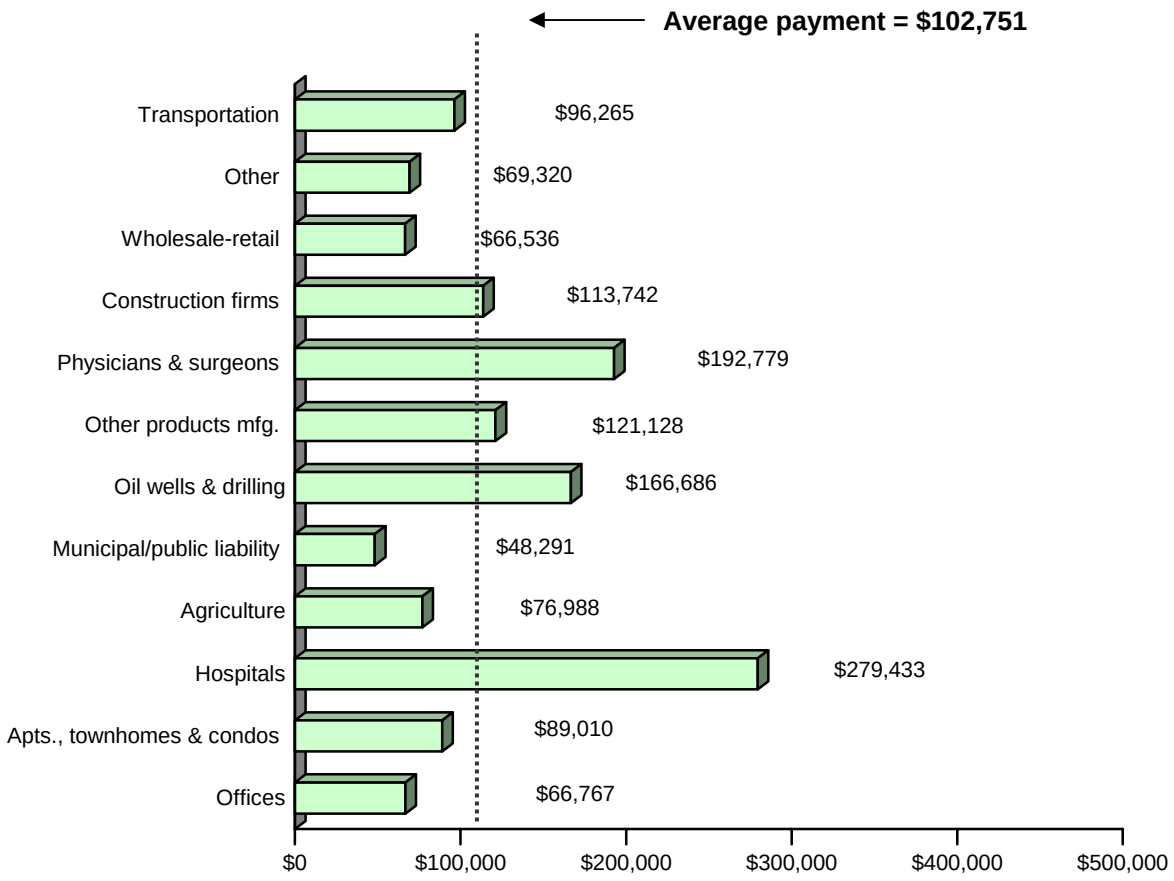


Figure 13 compares the average payment for each of the twelve major business classifications shown in Figure 12. The all lines average payment amount of $102,751 is represented by a dotted line for comparison purposes. Hospitals had an average claim payment of $279,433, the highest of the major classifications.

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 411 claims (5%) were affected by impaired or exhausted policy limits while 55 (13%) of those claims involved excess carriers. The most frequent policy limit was $1,000,000 for each line of insurance.

FIGURE 14

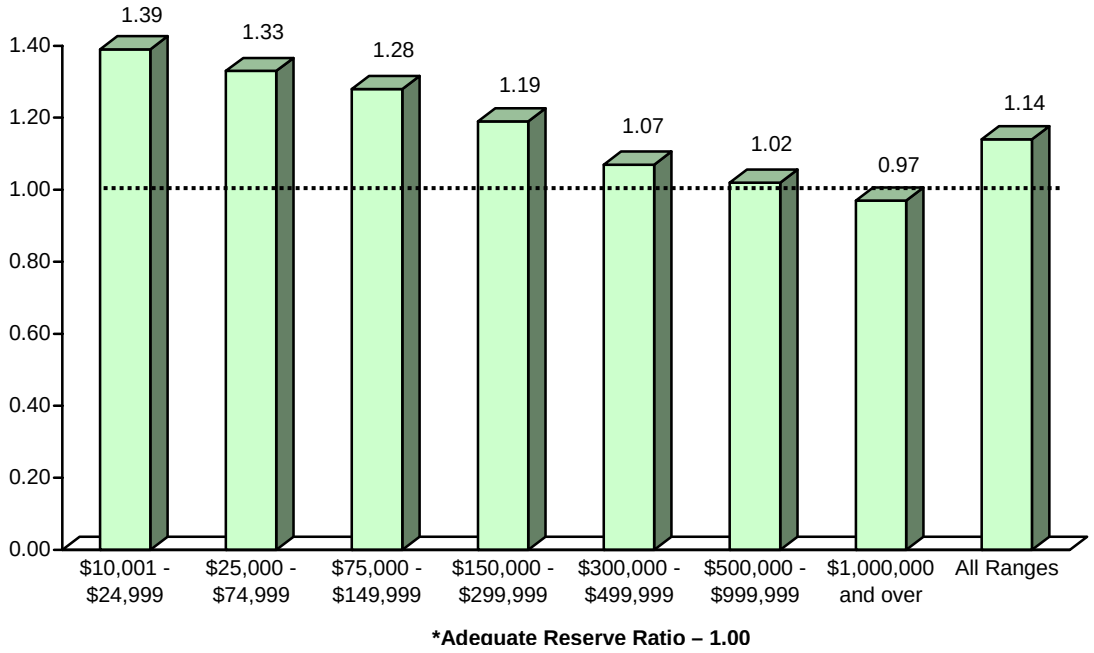
IMPAIRED OR EXHAUSTED POLICY LIMITS
BY LINE OF INSURANCE

Line of Insurance	Frequency	Average Payment	Excess Coverage Involved
General Liability	41	$952,028	19
Commercial Auto	220	$229,461	24
Commercial Multi-peril	14	$850,357	9
Medical Professional	136	$425,809	3
All Lines	**411**	**$387,664**	**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 $50,731 was 40% of the average expenditure of $127,643. Fifty-eight percent of the claims were over-reserved by $282,018,907 (just before the claim closed) while 28% were under-reserved by $122,868,971. The aggregate data from all forms indicates that expenditures were over-reserved by an average of 14%. 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 5,440 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

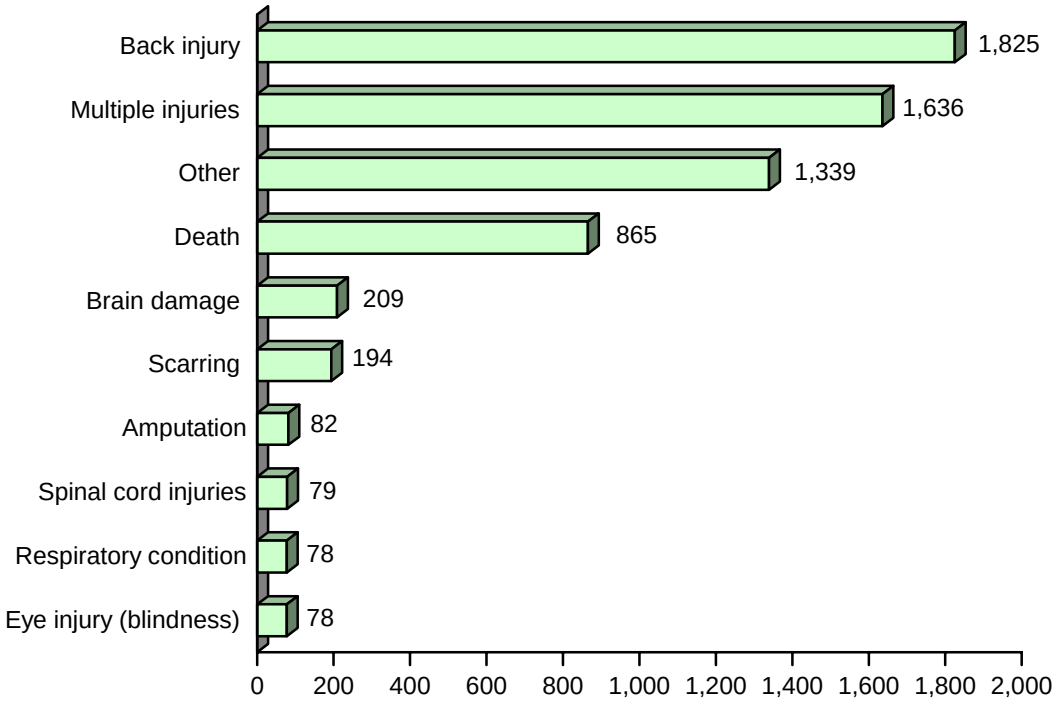
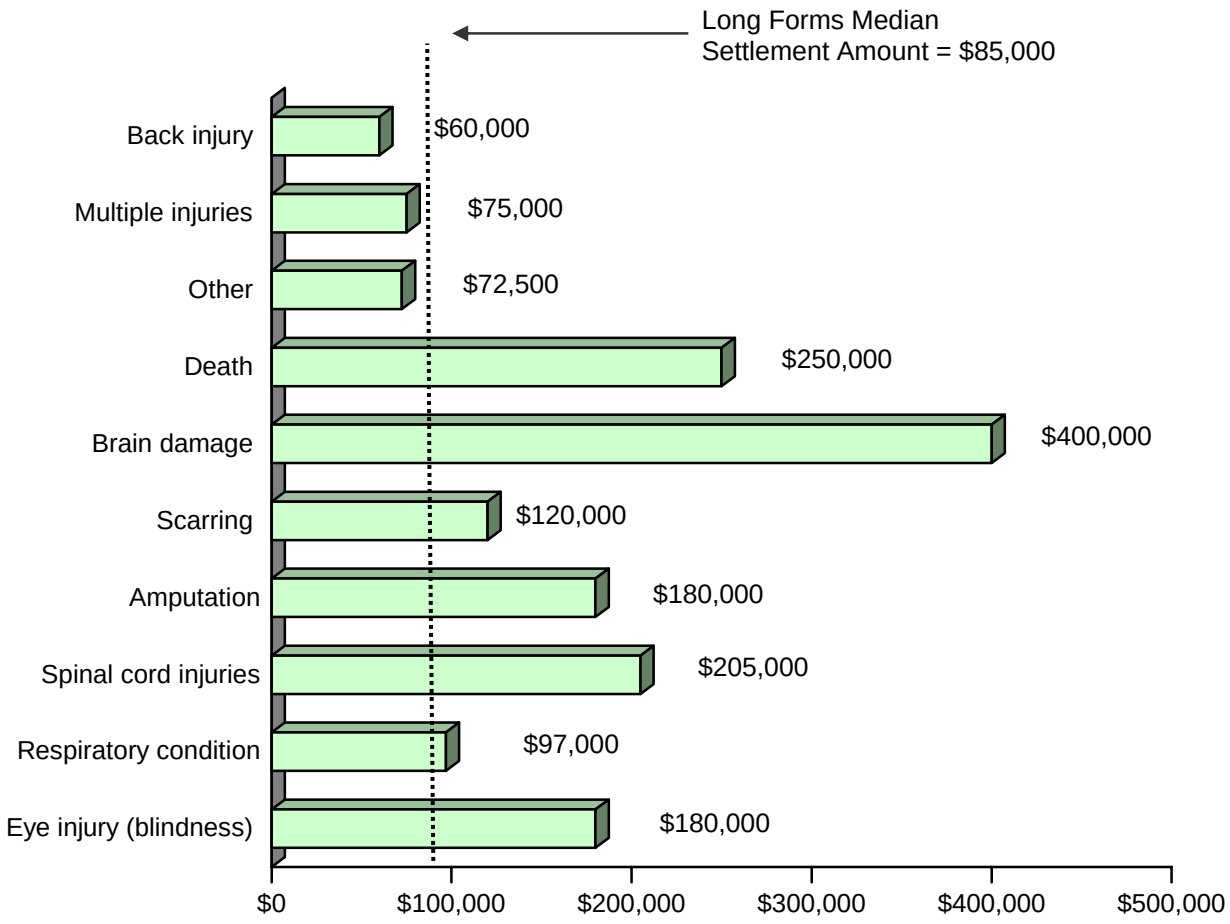


Figure 17 shows settlement amounts by injury type. Because of the possibility of duplicate reporting of injuries and the effect a large claim could have on the average claim amount, median settlement figures are used. The most costly claims closed in 2005 involved brain damage injuries.

FIGURE 17

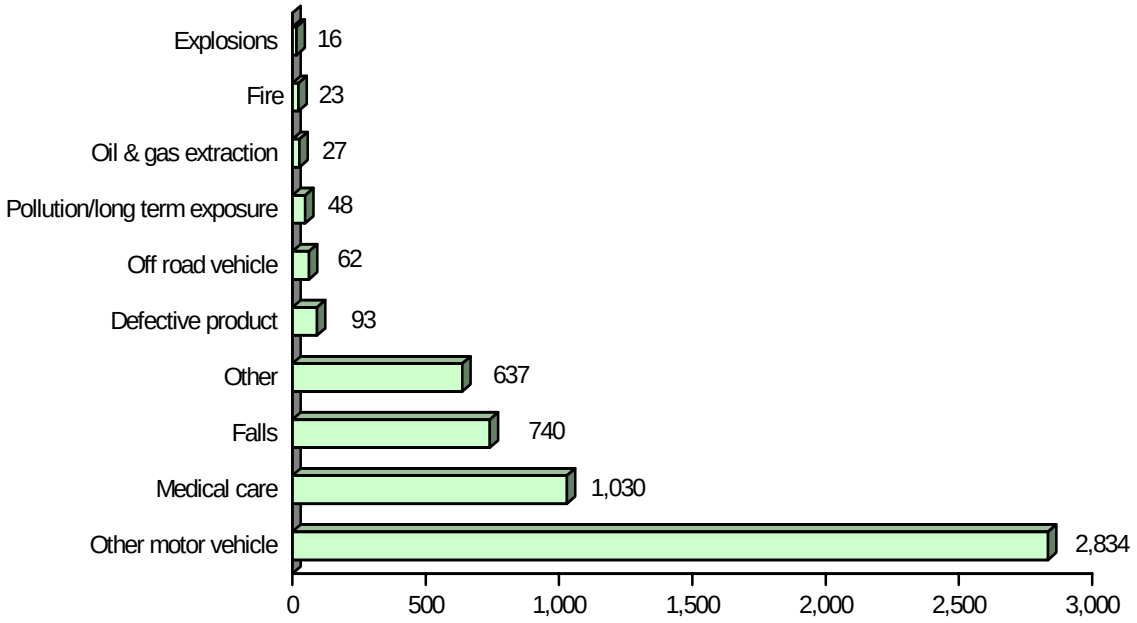
INJURY TYPE
MEDIAN SETTLEMENT AMOUNT



The long form also has 15 categories based upon the activity engaged in at the time of the injury. The ten 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

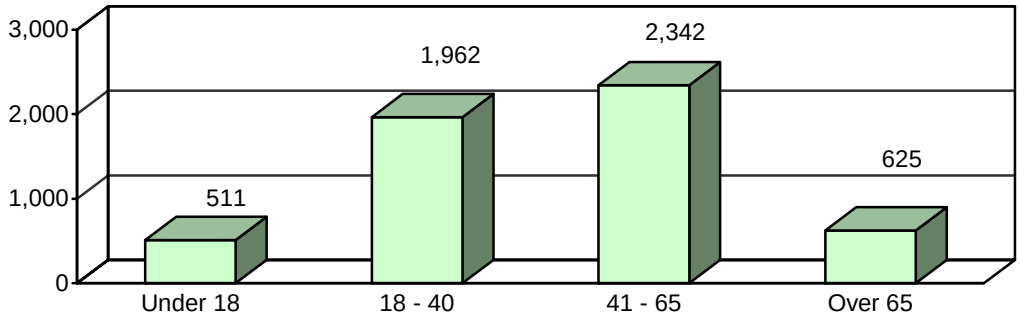
HOW THE INJURY OCCURRED
NUMBER OF CLAIMS



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 9,109 injuries that occurred in Texas and 102 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 39.85 claims for every 100,000 population.

FIGURE 20

WHERE THE INJURY OCCURRED

COUNTIES WITH 50 OR MORE INJURIES

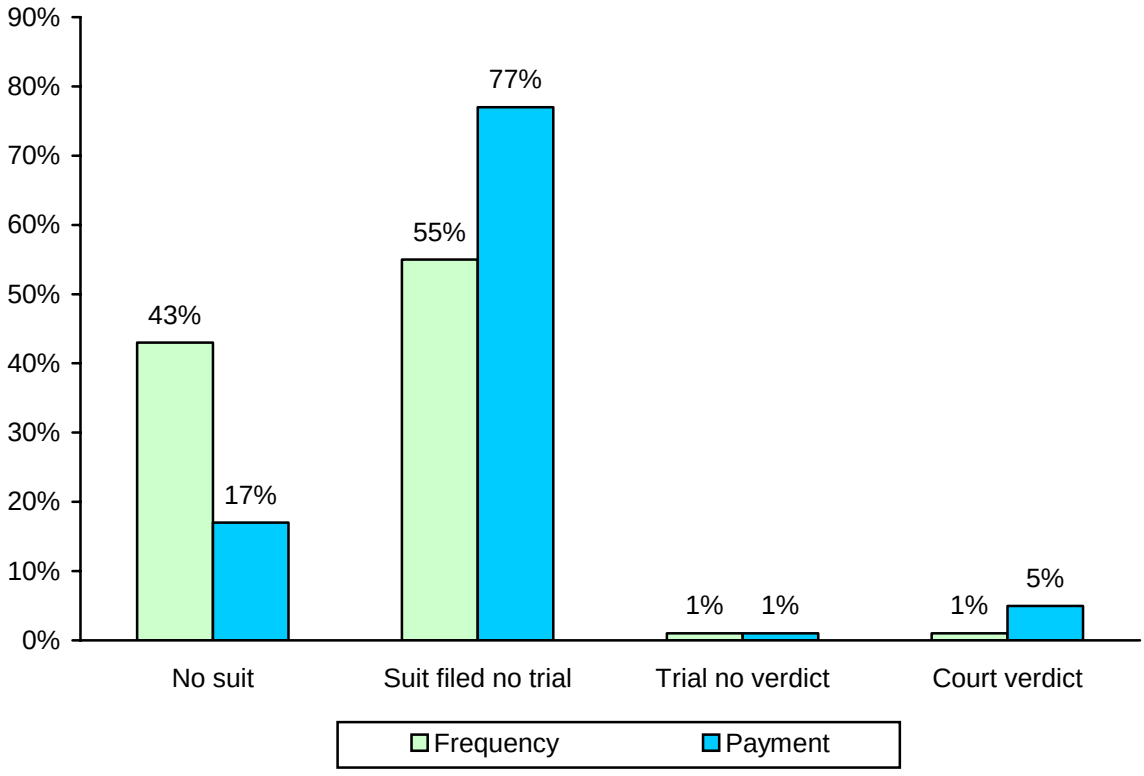
County	Number of Claims	Number of Claims/ 100,000 Population	Median Settlement Amount	Maximum Settlement Amount
Harris	1,819	49.25	$28,427	$15,158,500
Dallas	1,223	53.05	$25,000	$6,900,000
Tarrant	600	37.03	$25,017	$3,750,000
Bexar	575	37.87	$32,000	$7,945,500
Travis	356	40.08	$34,136	$2,984,441
Hidalgo	334	49.24	$27,500	$3,500,000
Jefferson	229	92.50	$61,716	$2,500,000
El Paso	201	27.85	$27,500	$2,000,000
Collin	199	30.18	$30,000	$4,245,292
Denton	165	29.75	$39,597	$4,777,135
Nueces	158	49.42	$32,500	$4,500,000
Montgomery	134	35.45	$30,000	$4,000,000
Cameron	120	31.72	$40,000	$2,349,910
Galveston	114	41.07	$31,000	$2,500,000
Smith	106	55.62	$39,500	$12,750,000
Lubbock	93	36.86	$25,000	$3,500,000
Webb	82	36.49	$34,500	$6,000,000
Brazoria	78	28.01	$35,000	$1,620,000
McLennan	76	33.83	$25,000	$4,750,000
Potter	69	57.57	$52,250	$1,100,000
Gregg	61	52.75	$30,000	$575,000
Williamson	58	17.39	$25,166	$1,125,000
Fort Bend	56	12.08	$20,000	$620,000
Bell	52	20.31	$66,250	$550,000
Ector	52	41.49	$31,250	$1,920,000
Victoria	52	60.71	$50,000	$7,950,000
Angelina	50	61.31	$80,678	$3,000,000

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 111 injuries reported on 14 short forms and 97 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 104 claims that appear to be complete.

FIGURE 21

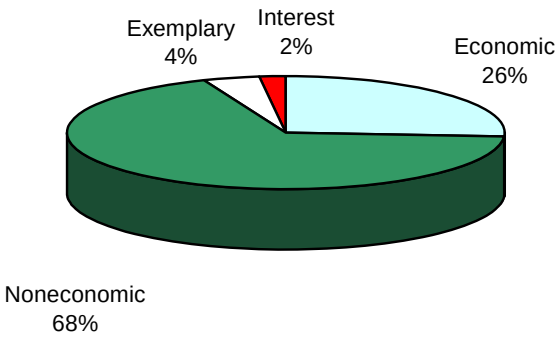
STAGES OF THE CLAIMS PROCESS



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 94% before the case was finally settled.

FIGURE 23

COURT VERDICT VS. SETTLEMENT AMOUNT

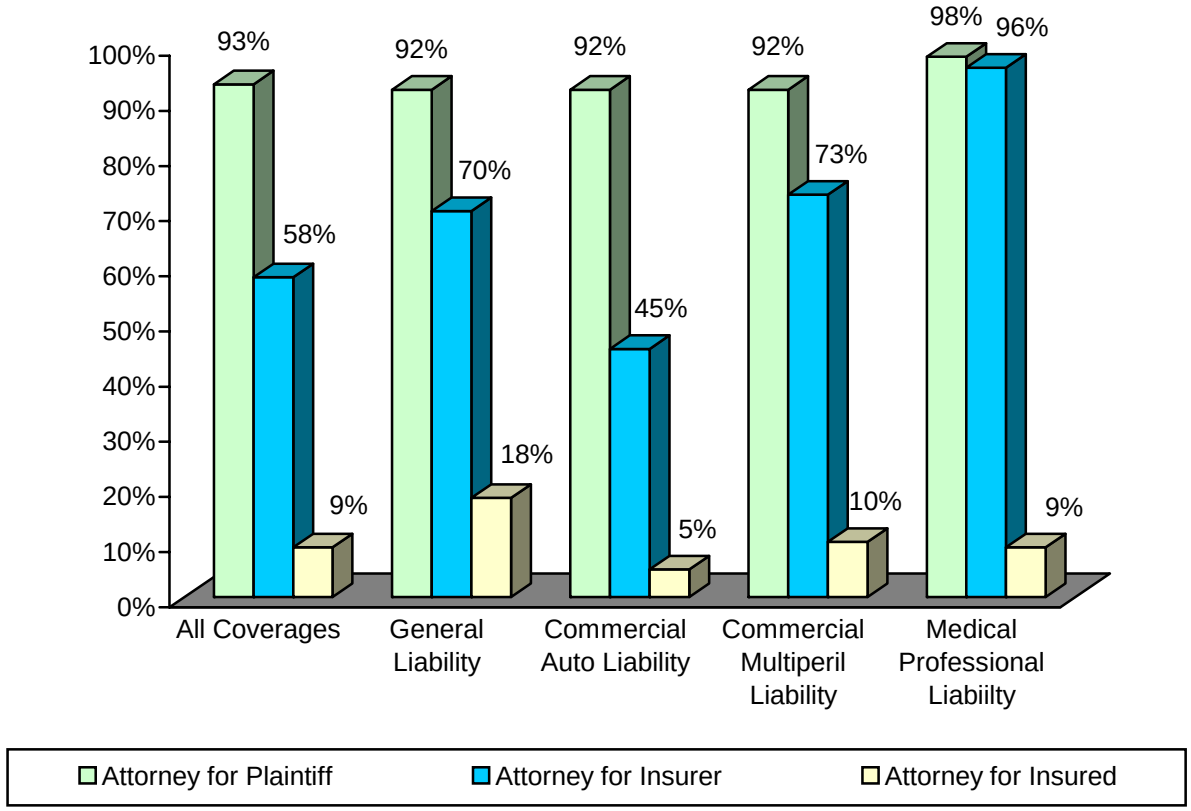
	Claims	Total Verdict Amount	Total Settlement Amount	Amount of Difference	Percent Difference
Verdict more than settlement	44	$668,838,515	$25,200,449	($643,638,066)	* (96.2%)
Verdict equal to settlement	38	$13,086,440	$13,086,440	$0	0.0%
Verdict less than settlement	22	$4,367,889	$6,164,070	$1,796,181	41.1%
Total	**104**	**$686,292,844**	**$44,450,959**	**($641,841,885)**	**(93.5%)**

* *Large percentage difference is largely attributable to one settlement with a jury verdict of just over $600 million, but due to a high-low agreement prior to the verdict, the settlement was $1 million.*

The data from all 9,211 reports shows that 93% of all cases indicated the involvement of an attorney on behalf of the injured person (plaintiff), while 58% 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 1,536 multiple-defendant cases that were settled before a court verdict and 35 judgments involving multiple defendants. In 198 (13%) of the 1,536 cases settled prior to a court verdict, the doctrine of joint and several liability impacted the settlement. Six of the 35 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 910 cases (17% of all long form settlements) indicate some fault attributable to the injured person. These 910 cases had a median settlement amount of $90,750 (approximately 7% more than the all long forms' median of $85,000) 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	1,057	101	9.6%
Commercial Auto	2,426	254	10.5%
Commercial Multi-peril	597	52	8.7%
Medical Professional	1,069	73	6.8%
Other Professional	75	7	9.3%
All Lines	**5,224**	**487**	**9.3%**

A total of 5,224 forms reported that suits were filed, with 4,737 filed in the county of injury; meanwhile, 487 forms indicated that the suit was filed in a county other than the county where the injury occurred. The median settlement amount in the 4,737 cases was $67,500, while the median settlement amount in the remaining 487 cases was $118,462. 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	614	67	10.9%	$70,000
Harris	1025	58	5.7%	$72,500
Bexar	367	35	9.5%	$70,000
Tarrant	313	28	8.9%	$55,000
Travis	226	26	11.5%	$94,500
Jefferson	197	20	10.2%	$85,000
Hidalgo	229	19	8.3%	$50,000
Galveston	92	17	18.5%	$95,000
Brazoria	63	15	23.8%	$90,000
Nueces	122	13	10.7%	$75,000
El Paso	117	10	8.5%	$70,000
Rusk	23	8	34.8%	$100,000
Harrison	27	8	29.6%	$84,417
Johnson	26	7	26.9%	$28,750
Maverick	36	7	19.4%	$112,500
Ector	40	6	15.0%	$61,632
Atascosa	10	5	50.0%	$73,394
Denton	77	5	6.5%	$58,000
Counties Listed	3,604	354	9.8%	$70,000
Counties Not Listed	1,620	133	8.2%	$75,000
All Counties	**5,224**	**487**	**9.3%**	**$72,500**

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	7,549	$617,920,023	3.2	20.1	2.0	25.3
Multi-Party	1,662	$328,518,014	23.3	27.0	4.0	54.2
All Parties	**9,211**	**$946,438,037**	**6.8**	**21.3**	**2.4**	**30.5**

Figure 28 shows time comparisons among various lines of insurance. The data for other professional liability is included with general liability due to only 88 claims being reported for this line of insurance. General liability cases involve the longest average span of time (48.9 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	1,605	$190,935,767	20.7	24.2	3.9	48.9
Commercial Auto	5,598	$432,017,096	1.1	19.0	1.9	22.0
Commercial Multiperil	864	$90,930,593	8.6	24.1	2.6	35.3
Medical Professional	1,144	$232,554,581	14.1	26.6	2.5	43.2
All Claims	**9,211**	**$946,438,037**	**6.8**	**21.3**	**2.4**	**30.5**

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 (153.1 months), which is more than four times the average of 35.3 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

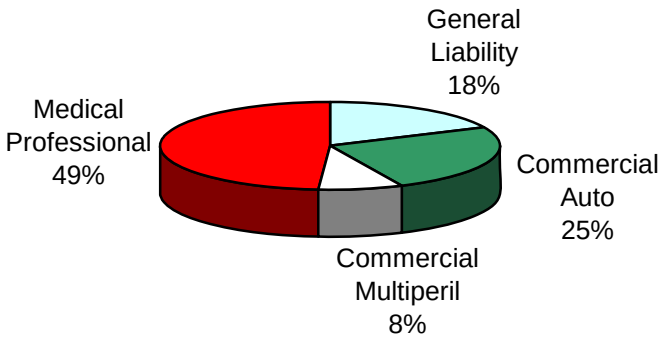
ALL LONG FORMS TIME STUDY
BY INJURY TYPE (MONTHS)

Injury Type	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
Death	865	$274,449,739	10.4	26.0	3.6	40.0
Amputation	82	$20,514,073	9.6	25.3	4.2	39.1
Burns (heat)	77	$17,834,278	7.8	27.2	4.5	39.4
Burns (chemical)	18	$2,929,976	8.6	30.1	2.7	41.4
Systemic Poisoning (toxic)	23	$3,669,879	13.2	26.7	4.2	44.0
Systemic Poisoning (other)	11	$1,091,072	11.5	24.2	3.1	38.7
Eye injury (blindness)	78	$14,189,046	11.7	24.8	2.9	39.3
Respiratory condition	78	$9,160,249	114.7	27.2	11.2	153.1
Nervous condition	45	$10,612,301	10.0	29.6	3.2	42.8
Hearing loss/impairment	29	$8,509,913	10.1	26.7	8.0	44.7
Circulatory condition	25	$4,264,128	9.6	28.5	2.7	40.8
Multiple injuries	1,636	$237,830,618	3.2	24.0	2.8	30.1
Back injury	1,825	$201,320,656	2.7	24.4	2.5	29.6
Skin disorder	28	$5,374,561	16.4	24.0	3.4	43.8
Brain damage	209	$99,819,707	11.7	29.6	3.0	44.3
Scarring	194	$43,025,673	4.3	23.0	2.7	30.0
Spinal cord injuries	79	$24,217,937	8.8	28.3	3.3	40.4
Other	1,339	$158,917,237	8.8	24.6	2.5	35.8
All Long Forms	**5,440**	**$892,287,210**	**7.5**	**24.9**	**2.9**	**35.3**

Injury type is only reported on the long form. There were 865 injuries (16%) reported on the long form that resulted in death. As shown in figure 30, medical professional liability claims account for 49% of the death claims, commercial auto liability for 25%, general liability for 18%, and commercial multi-peril liability for 8%.

FIGURE 30

DEATH CLAIMS
BY LINE OF INSURANCE



Of the 5,440 settlements reported on long forms, 865 claims indicated work-related injuries. On a percentage basis, the business classification of office indicated the highest rate of work-related injuries with 40.7% of the claims relating to the job, followed by construction firms at 34.5% and other products manufacturers with 31.7% 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	Injury to Close
Construction firms	253	34.5%	$222,906	28.1	39.9
Transportation	165	15.4%	$225,649	24.8	31.0
Other	111	12.6%	$151,053	25.7	40.9
Wholesale-retail trade	109	14.7%	$149,539	26.4	39.4
Other products mfg.	80	31.7%	$200,477	24.7	65.7
Oil wells & drillings	45	27.6%	$240,179	20.1	31.5
Office	22	40.7%	$121,356	24.1	40.5
All Business Classes	**865**	**15.9%**	**$193,770**	**26.0**	**40.6**

The 2005 closed claim report data contains 540 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 $115,159 was 12% more than the average of $102,751 for all lines. The average allocated loss adjustment expense for product liability claims of $23,207 was less than the average of $24,892 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	$115,159	$156,794	$23,207	$18,493	22.1
All Forms	**$102,751**	**$125,041**	**$24,892**	**$19,880**	**21.3**

Only 218 settlements indicated municipal/public liability as the insured business classification. Data derived from these reports show the average payment amount to be $48,291, which is 53% less than the average of $102,751 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	$48,291	$55,435	$17,745	$13,796	23.1
All Forms	**$102,751**	**$125,041**	**$24,892**	**$19,880**	**21.3**

2005 Calendar Year
Annual Aggregate Closed Claim Report

The 2005 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 forty-eight insurance companies and five 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	21,968	3,421	25,389	$8,653,842
Other Professional Liability	4,600	125	4,725	$425,810
Commercial Auto Liability	19,325	17,000	36,325	$57,399,603
Commercial Multi-peril Liability	7,060	2,520	9,580	$6,713,057
Medical Professional Liability	5,152	198	5,350	$793,422
Total	**58,105**	**23,264**	**81,369**	**$73,985,734**

2005 Closed Claim Reconciliation Form

The Texas Department of Insurance required companies to submit a reconciliation form for calendar year 2005 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 2005 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 530 insurance companies that reported a total of $2,416,779,283 direct losses paid on the 2005 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 $1,458,908,233 of direct losses paid involved amounts that were not reported during calendar year 2005 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 2005 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 2005 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 $43,172,761 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 2005 Annual Statement, Texas Statutory Page 14.

TEXAS CLOSED CLAIM RECONCILIATION
FOR CALENDAR YEAR 2005

TOTALS FOR ALL 530 COMPANIES

	General Liability	Commercial Auto	Commercial Multi-peril	Medical Professional	TOTAL
1. Payments Included in Quarterly Closed Claim Reports from the ATL	$135,414,496	$343,396,009	$65,634,137	$154,157,140	$698,601,782
2. Payments reported on Annual (Summary) Closed Claim Report	$8,670,842	$55,582,904	$6,713,057	$720,922	$71,687,725
3. Total Closed Claim Payments Reported	$144,085,338	$398,978,913	$72,347,194	$154,878,062	$770,289,507
ADJUSTMENTS TO LINE 3					
4. Property damage losses paid	$273,694,259	$188,919,949	$68,754,365	$4,235	$531,372,808
5. Other losses reported on *TX Statutory Page 14* that did not entail bodily injury	$338,176,663	$48,801,666	$18,226,484	$4,385,337	$409,590,150
6. Payments on claims not closed in calendar year 2005	$131,515,709	$84,740,868	$23,610,330	$29,494,428	$269,361,335
7. Payments made prior to Jan. 1 on claims closed during the year 2005	($83,583,759)	($64,501,728)	($21,501,722)	($48,671,692)	($218,258,901)
8. Excess coverage payments not reportable on Quarterly Closed Claim Reports	$343,344,105	$36,301,018	$1,502,553	$80,904	$381,228,580
9. Losses paid on claims not settled under Texas law	$123,749,554	$53,491,015	$10,982,650	$3,249,869	$191,473,088
10. Payments on claims reported on policies written in another state	($26,646,939)	($50,736,881)	($2,913,926)	($641,955)	($80,939,701)
11. Payments of $10,000 or less that were reported on Quarterly reports	($18,736)	($55,498)	($10,000)	$0	($84,234)
12. Reimbursements received	($19,821,594)	($15,343,193)	($1,928,764)	($6,079,210)	($43,172,761)
13. Rounding and Statistical Adjustments	($898,510)	($1,158,025)	$552,168	$202,740	($1,301,627)
14. Unusual Circumstances	$33,587,155	$0	$856,062	$0	$34,443,217
15. Unreconciled amounts	$27,942,758	($1,913,616)	$97,610	$151,154	$26,277,906
16. Payments for claims on the Closed Claim Report of Unaccepted Transactions	$182,633	$832,408	$41,251	$0	$1,056,292
17. Closed Claim subtractions	($51,734,498)	($50,107,085)	($18,872,912)	($10,034,486)	($130,748,981)
18. Closed Claim additions	$28,695,817	$23,151,171	$24,009,255	$8,913,067	$84,769,310
19. Late Quarterly Closed Claim Reports (Filed after July 2005)	$64,236,739	$84,278,823	$15,903,629	$27,004,104	$191,423,295
20. Sum of lines 3 through 19, (Must equal line 21)	$1,326,506,694	$735,679,805	$191,656,227	$162,936,557	$2,416,779,283
21. *Annual Statement Texas Statutory Page 14,* DIRECT LOSSES PAID	**$1,326,506,694**	**$735,679,805**	**$191,656,227**	**$162,936,557**	**$2,416,779,283**

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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