

***The 2011 Texas Liability Insurance
Closed Claim Annual Report***



Texas Department of Insurance

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Background

This is the 24th Texas Liability Insurance Closed Claim Annual Report prepared by the Texas Department of Insurance 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 4,934 reports for claims that closed in 2011. These claim reports account for \$1.2 billion in paid settlements.

Introduction

The data utilized in the preparation of this report includes 4,934 commercial liability closed claims submitted for calendar year 2011 on Quarterly Closed Claim Reports. All claims involve bodily injury, are settled under Texas law, and include 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 2011 quarterly closed claim database includes claims from 292 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.

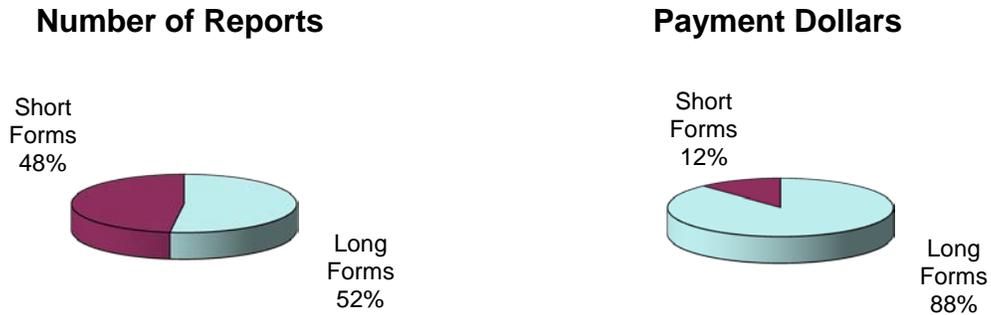
Payment amount in this report refers to the amount paid by the primary carrier on line 12 A.1 of the Quarterly Closed Claim Reports. Settlement amount refers to the amount paid by all parties on line 12 A.7 of the Quarterly Closed Claim Reports. The settlement amount may include payments from other insurers,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

There were 4,934 Closed Claim Reports used in the preparation of this report and were divided as follows:

- 2,360 Short Forms – Indemnity settlements over \$25,000 but less than \$75,000
- 2,574 Long Forms – Indemnity settlements of \$75,000 or more

Short Forms account for 48 percent of all reports, however, only 12 percent of the total payments are on Short Forms. This is illustrated in Figure 1 on the following page.

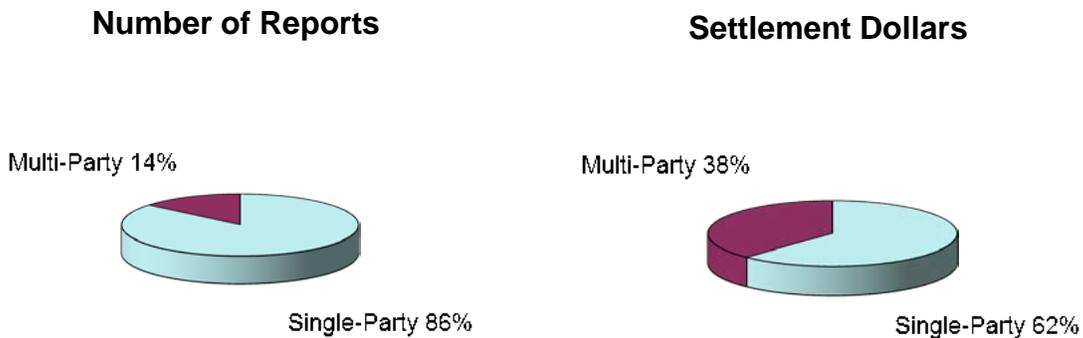
FIGURE 1
SHORT FORM VS. LONG FORM



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 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 14 percent of the 2011 reports and 38 percent 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 \$1.2 billion in settlements from 4,934 closed claim forms are included in this report as shown in the last line of Figure 3. Keep in mind that the total settlement amount might be incomplete. Reports indicating involvement of other contributing parties might 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. As a result, the number of claims shown on the "Total Settlement" row may not equal the sum for each contributing party.

FIGURE 3

2011 CLOSED CLAIM DATA BASE SUMMARY

Contributing Parties	Claims	Amount Paid
Primary Carrier	4,572	\$767,165,581
Insured Due to Deductible	558	\$56,087,893
Insured in Excess of Policy Limits	21	\$2,330,866
Excess Carrier	106	\$150,736,264
Other Insured Defendants	354	\$155,752,738
Other Uninsured Defendants	47	\$22,657,133
Total Settlement	4,934	\$1,154,729,975

Figure 4 shows the average payment amount for all claims was \$155,486. The single-party average claim payment was \$135,856 as compared to the multi-party average claim payment of \$279,982.

FIGURE 4

THE AVERAGE 2011 COMMERCIAL LIABILITY CLAIM SINGLE-PARTY VS. MULTI-PARTY

Average	Single-Party	Multi-Party	All Forms
Payment Amount	\$135,856	\$279,982	\$155,486
Final Indemnity Reserve	\$160,759	\$327,669	\$183,492
Allocated Loss Adjustment Expense	\$24,966	\$110,488	\$36,614
Final Expense Reserve	\$19,646	\$100,464	\$30,653
Claim Duration (Months)	21.8	26.2	22.4

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 28 percent of claims reported, they account for 75 percent of the total dollar amount of payments reported in the study. These ranges are shown in Figure 5 below.

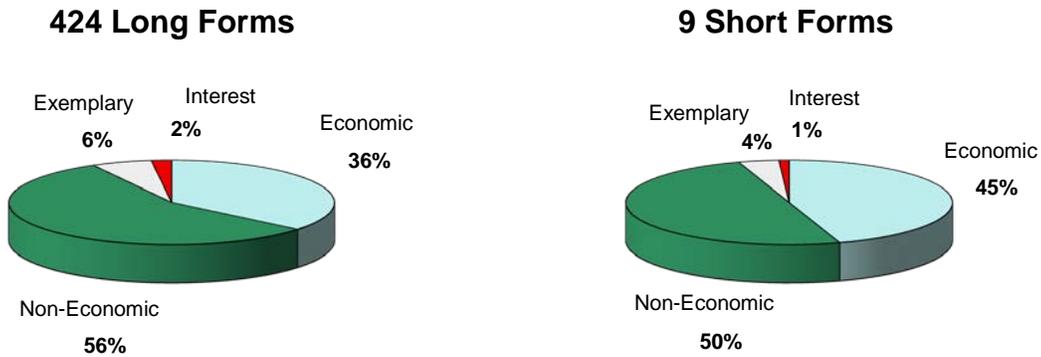
FIGURE 5
NUMBER OF PAYMENTS
BY PAYMENT RANGE

Payment Range	Single-Party	Multi-Party	Total
\$10,000 and Less	342	28	370
\$10,001 - \$24,999	9	10	19
\$25,000 - \$74,999	2,098	114	2,212
\$75,000 - \$149,999	796	178	974
\$150,000 - \$299,999	519	170	689
\$300,000 - \$499,999	232	68	300
\$500,000 - \$999,999	211	70	281
\$1,000,000 and Over	55	34	89
All Payments	4,262	672	4,934

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 424 Long Forms that indicated the categories of non-economic losses, exemplary damages or prejudgment interest influenced the settlement of the claim, 36 percent of the damages were designated to economic losses, 56 percent to non-economic losses, 6 percent to exemplary damages, and 2 percent to prejudgment interest. These percentages are displayed in Figure 6 on the following page.

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 economic losses, non-economic losses, exemplary damages, and prejudgment interest. In the adjusters' opinions, there were nine Short Forms that were influenced by exemplary damages. The percentages by categories are also shown in Figure 6 on the following page.

FIGURE 6
DAMAGES
INFLUENCED BY EXEMPLARY DAMAGES



The available data from 2,574 Long Forms indicates the use of structured settlements in the final resolution of 181 indemnity claims (7 percent). These structured settlements amounted to \$200.8 million with an average settlement amount of \$1.1 million and a median settlement amount of \$500,000. In these 181 cases, the immediate payment was on average 68 percent of the total settlement amount, while the structured portion was 32 percent of the total settlement amount.

Of the 2,574 Long Forms, 1,097 (43 percent) 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	392
Medical Insurance	469
Disability Insurance	25
Social Security Benefits	28
Medicare, Medicaid	290
Sick Leave	21
Other	47

Insurers were asked on all forms to divide their allocated loss adjustment expenses (ALAE) into three categories: outside defense counsel, in-house defense counsel, and other expenses. A total of 1,541 forms indicate no ALAE for the claim reported.

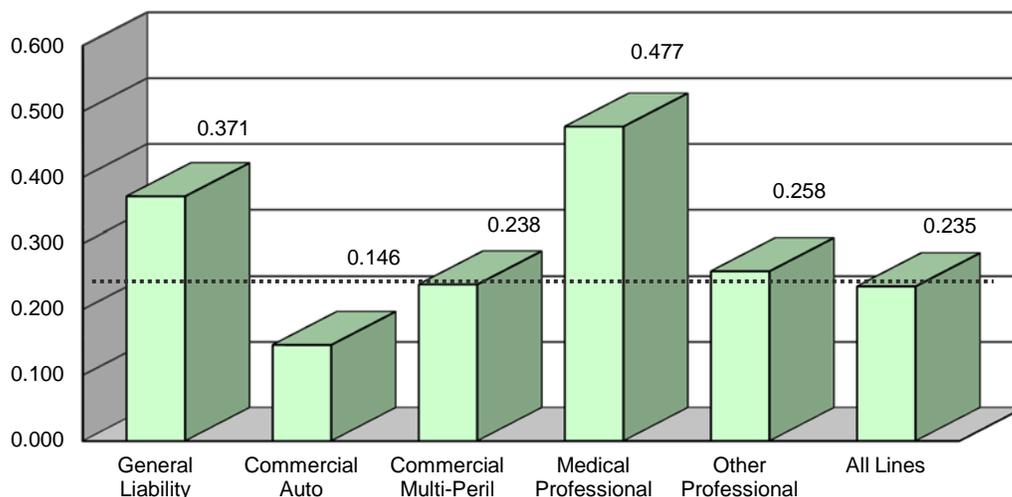
One of the three categories of expense was shown on the other 3,393 reports. Figure 8 shows the relationship of ALAE to claim payments. The ALAE to payment ratio increased as average payment increased. Since cost containment expenses are not reported on the closed claim forms, the data in this section 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	1,541	\$79,640	0.000
\$1 - \$ 2,999	426	\$104,737	0.011
\$3,000 - \$ 5,999	238	\$109,404	0.041
\$6,000 - \$ 9,999	335	\$116,033	0.068
\$10,000 - \$24,999	809	\$153,403	0.109
\$25,000 - \$49,999	715	\$172,712	0.206
\$50,000 and over	870	\$330,254	0.479
Total	4,934	\$155,486	0.235

The data from all forms indicates that the average ALAE was 23.5 percent of the insurer's payment. Figure 9 compares the ALAE/payment ratio by line of insurance. Claims without ALAE are included. The ratio of 0.235 for all lines is shown by a dotted line for comparison purposes.

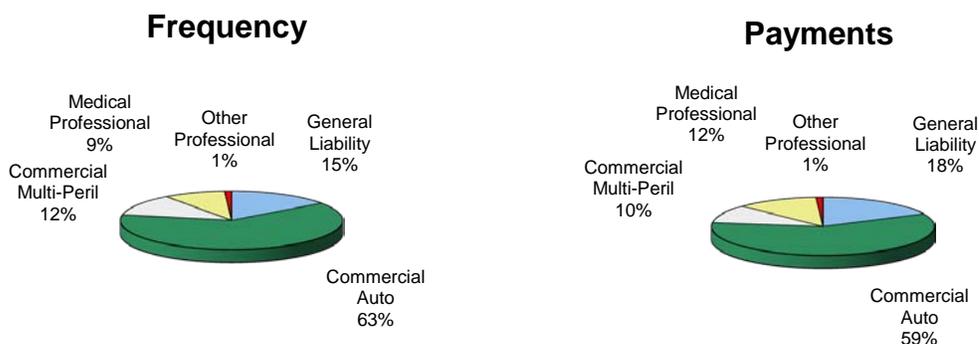
FIGURE 9
ALAE/PAYMENT RATIO
BY LINE OF INSURANCE



Insurance Policy Data

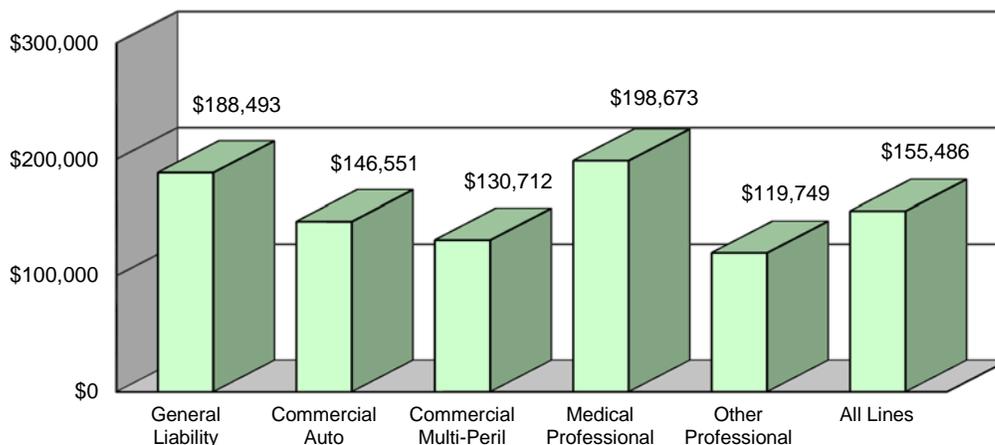
Commercial auto liability claims represent 63 percent of the Closed Claim Reports filed and 59 percent of the insurer payments. General liability claims represent 15 percent of the Closed Claim Reports filed and 18 percent of the insurer payments. Claims related to the liability portion on commercial multi-peril policies represent 12 percent of the reports filed and 10 percent of the insurer payments. Medical professional liability claims represent 9 percent of the reports filed and 12 percent of the insurer payments. Other professional liability claims represent 1 percent of the reports filed and 1 percent of the insurer payments. Only 32 cases involve other professional liability and, as a result, 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 \$155,486. Claims involving medical professional liability reflect the highest average payment of \$198,673. Other professional claims average \$119,749, considerably below the average. These comparisons are illustrated in Figure 11. These averages do not include settlements of \$25,000 or less reported on the Aggregate Closed Claim Report - see page 25.

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 12 business classifications listed in Figure 12 account for nearly 96 percent of the total reported claims and nearly 95 percent of the total payments reported for calendar year 2011.

FIGURE 12
FREQUENCY OF CLAIMS
BY BUSINESS CLASSIFICATION

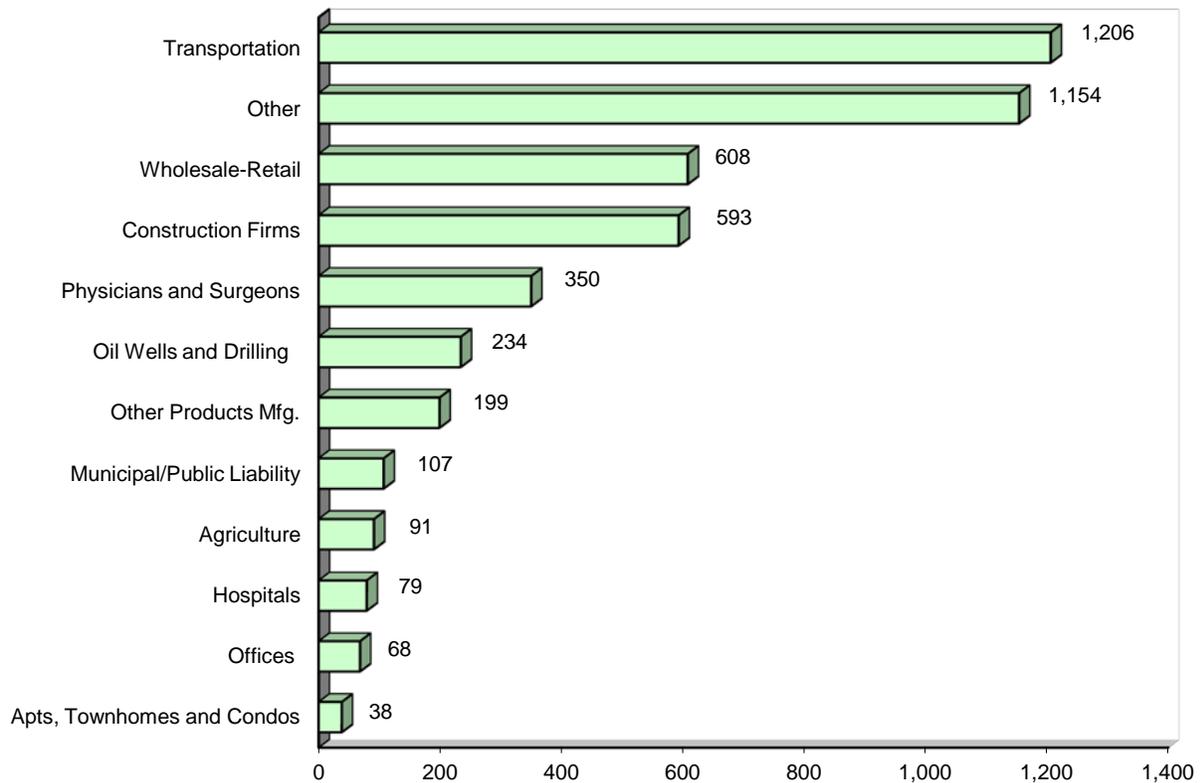
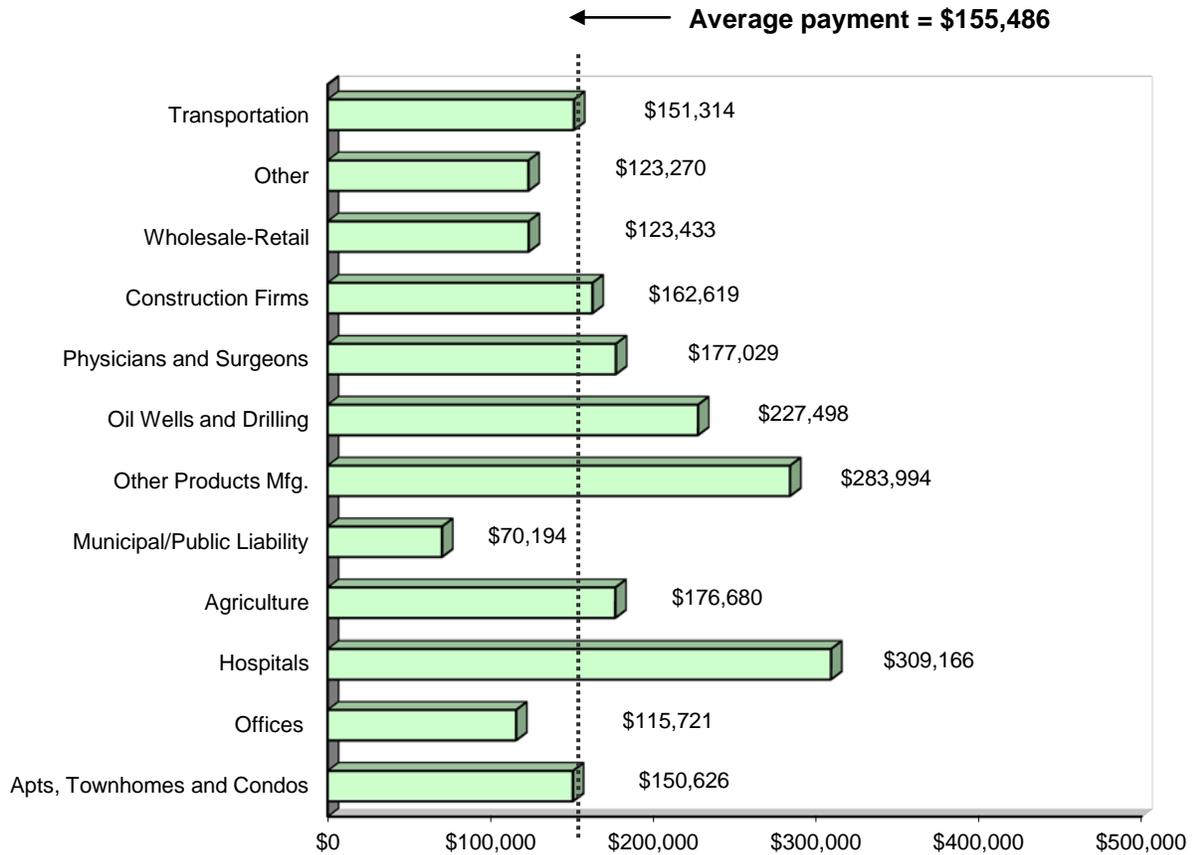


Figure 13 on the following page compares the average payment for each of the 12 major business classifications shown in Figure 12. The all lines average payment amount of \$155,486 is represented by a dotted line for comparison purposes. The highest of the major classifications was hospitals with an average claim payment of \$309,166.

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 possible presence of multiple claimants 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 on the following page shows 214 claims (4 percent) were affected by impaired or exhausted policy limits while 41 (19 percent) of those claims involved excess carriers. The most frequent policy limit was \$1million for each line of insurance.

FIGURE 14

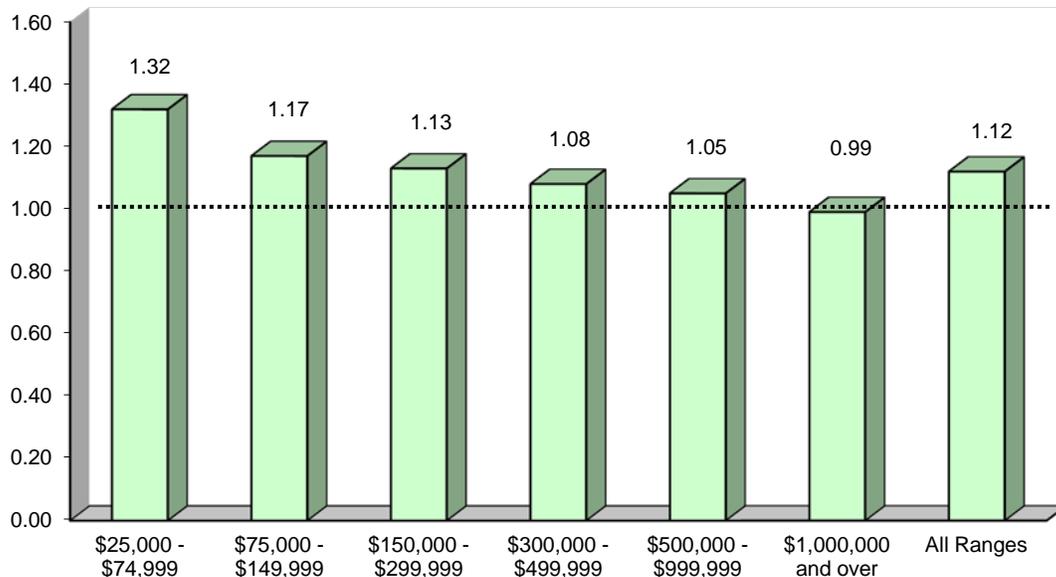
**IMPAIRED OR EXHAUSTED POLICY LIMITS
BY LINE OF INSURANCE**

Line of Insurance	Frequency	Average Payment	Excess Coverage Involved
General Liability	26	\$1,454,808	17
Commercial Auto	129	\$391,182	20
Commercial Multi-Peril	11	\$784,091	4
Medical Professional	48	\$342,796	0
All Lines	214	\$529,751	41

Since some insurers include expense reserves with indemnity reserves, they were combined in this report. The sum of the payment and ALAE is designated as an expenditure. Overall, the average initial case basis reserve of \$67,431 was 35 percent of the average expenditure of \$192,099. Sixty percent of the claims were over-reserved by a total of \$179.9 million (just before the claim closed) while 26 percent were under-reserved by a total of \$71.1 million. The aggregate data from all forms indicates that expenditures were over-reserved by an average of 12 percent. A comparison for all lines 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 2,574 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. So 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

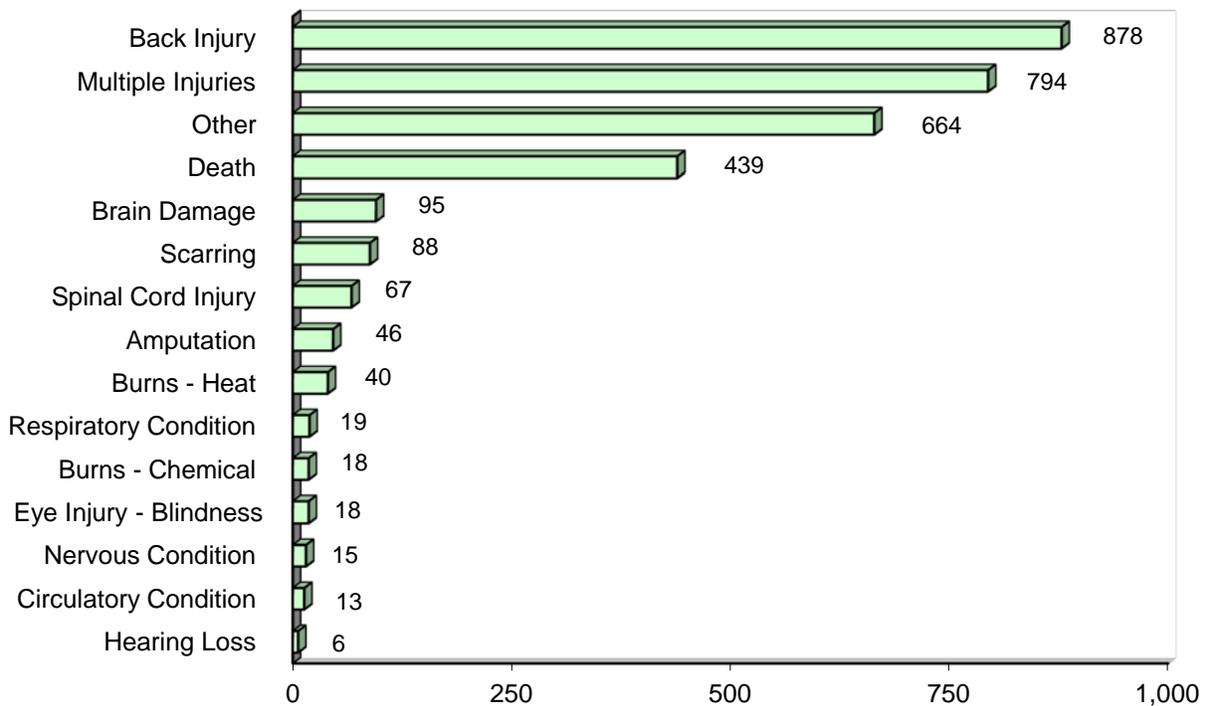
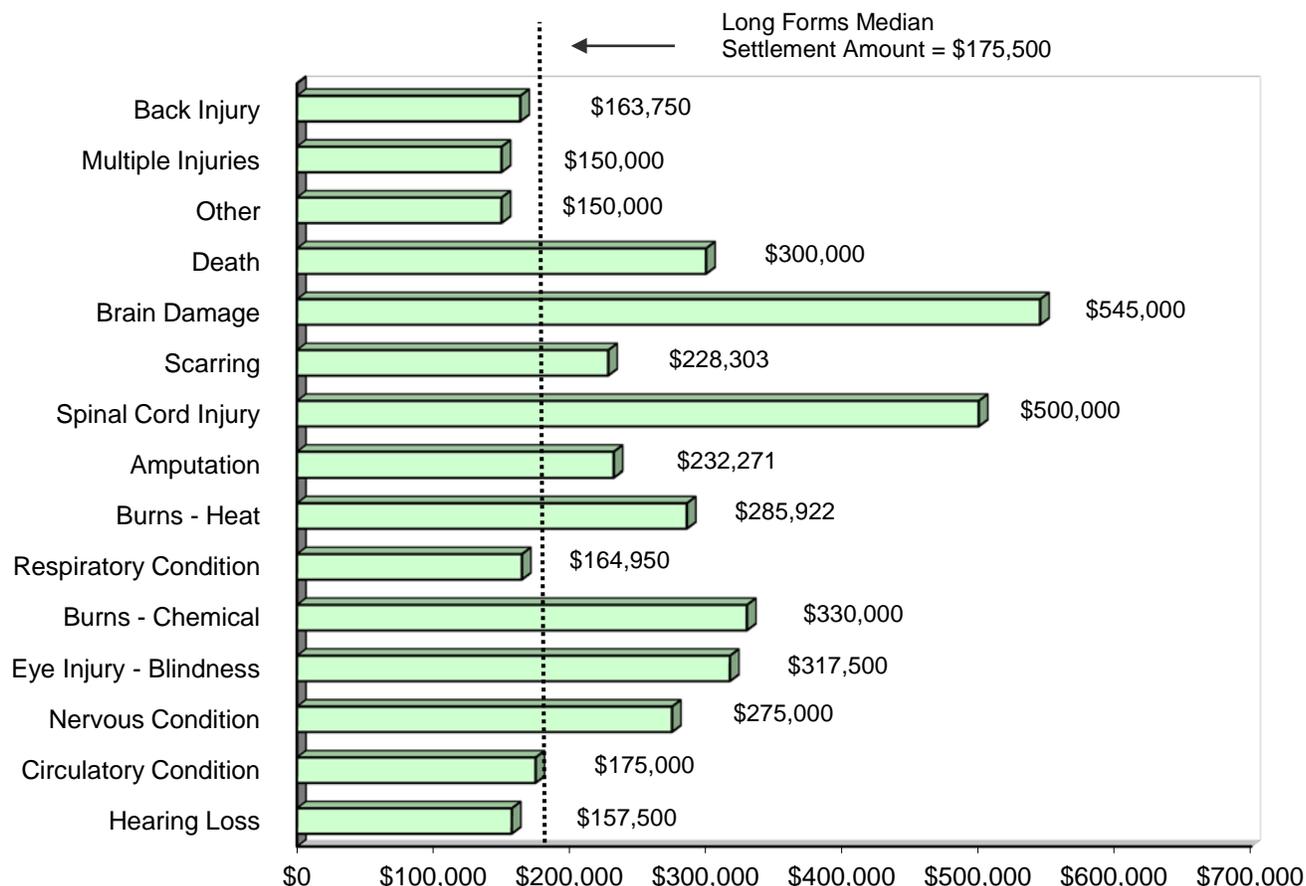


Figure 17 on the following page shows settlement amounts by injury type. Because of the possibility of duplicate reporting of injuries and the effect a large claim could have on the average claim amount, median settlement figures are used. The most costly claims closed in 2011 involved brain damage injuries.

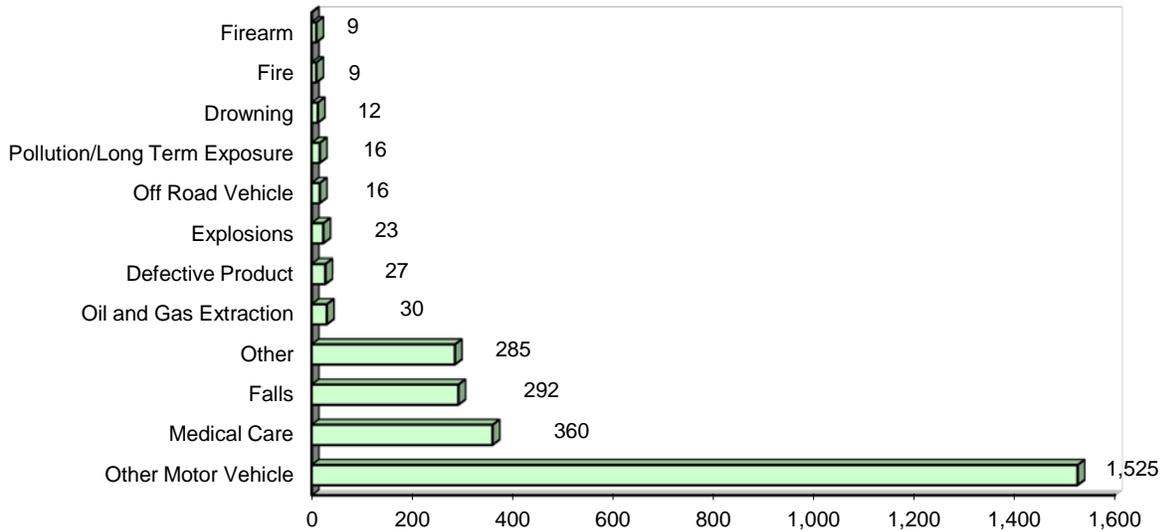
FIGURE 17
INJURY TYPE
MEDIAN SETTLEMENT AMOUNT



The Long Form also has 15 categories based on the activity engaged in at the time of the injury. The 12 most frequent activities are shown in Figure 18 on the following page. 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

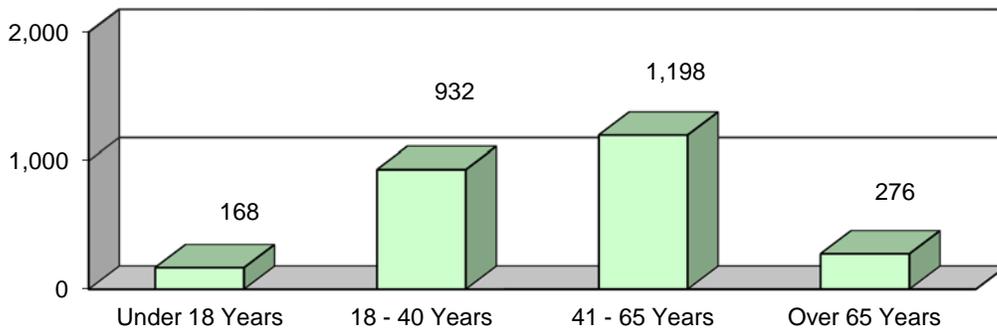
**HOW THE INJURY OCCURRED
NUMBER OF CLAIMS**



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 4,888 injuries that occurred in Texas and 46 injuries that occurred outside of Texas. Figure 20 on the following page shows the Texas counties with 30 or more injuries and the ratio of claims to county population. The statewide ratio is 19.04 claims for every 100,000 population.

FIGURE 20

**WHERE THE INJURY OCCURRED
COUNTIES WITH 30 OR MORE INJURIES
CLAIMS WITH SETTLEMENTS OVER \$25,000**

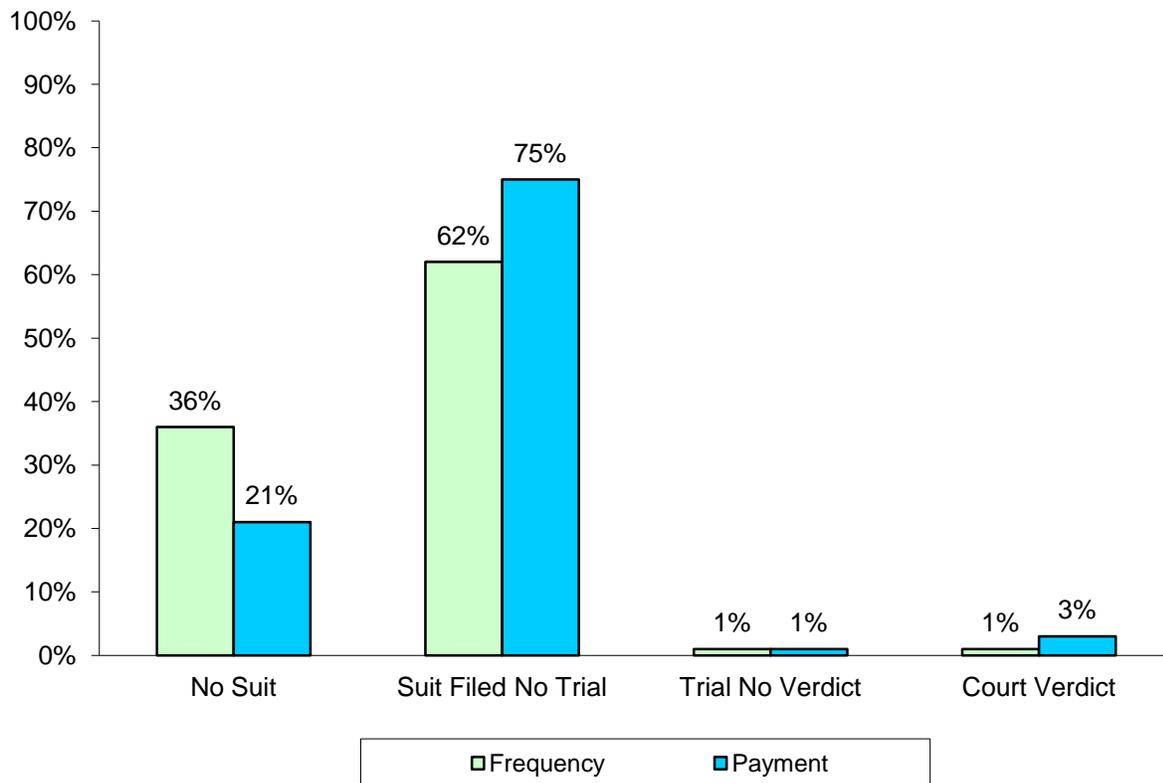
County	Number of Claims	Number of Claims per 100,000 Population	Median Settlement Amount	Maximum Settlement Amount
Harris	947	22.65	\$70,000	\$5,000,000
Dallas	479	19.83	\$60,000	\$19,500,000
Bexar	341	19.42	\$85,000	\$9,000,000
Tarrant	261	14.11	\$65,000	\$3,205,000
Hidalgo	216	27.07	\$80,000	\$4,000,000
Travis	154	14.49	\$72,750	\$3,065,000
El Paso	142	17.30	\$71,250	\$4,150,000
Jefferson	118	46.68	\$90,450	\$2,500,000
Cameron	111	26.80	\$70,369	\$5,000,000
Nueces	91	26.51	\$62,500	\$9,500,000
Collin	87	10.71	\$65,000	\$1,450,000
Montgomery	83	17.59	\$60,000	\$1,000,000
Denton	74	10.78	\$65,000	\$1,000,000
Smith	66	30.93	\$75,500	\$4,000,000
Webb	64	24.95	\$100,000	\$1,997,558
Gregg	48	39.00	\$123,750	\$1,440,000
Lubbock	45	15.85	\$60,000	\$600,000
Galveston	44	14.88	\$78,421	\$10,162,500
Fort Bend	40	6.59	\$61,000	\$2,900,000
McLennan	39	16.35	\$65,000	\$950,000
Potter	38	31.07	\$50,975	\$13,005,000
Johnson	36	23.57	\$92,500	\$1,500,000
Ector	33	23.55	\$170,000	\$1,740,370
Brazoria	32	10.00	\$93,029	\$6,900,000
Maverick	31	55.95	\$90,000	\$625,000
Orange	30	36.37	\$97,000	\$2,600,000

Claims Process

In Figure 21, only 1 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 55 injuries reported on 10 Short Forms and 45 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 might have contributed to the settlement without being involved in the court verdict and might have agreed to a settlement before or after a verdict. Since the total settlement amount for multi-party claims might be inaccurate or unknown, the section on court verdicts deals only with the payments of the claims that appear to be complete. All 55 of the claims involving court verdicts appear complete.

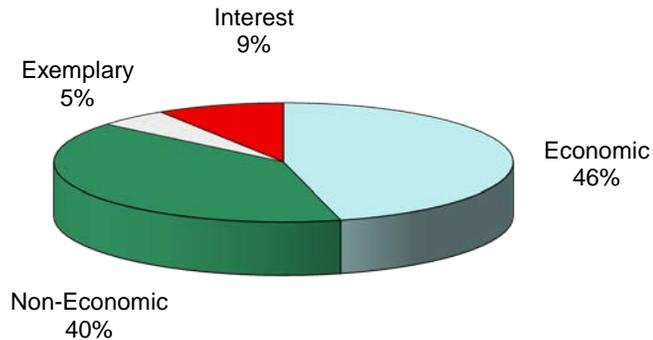
FIGURE 21

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. Figure 22 indicates the allocation of the verdict amount into damages.

FIGURE 22
COURT VERDICTS
DAMAGES BY CATEGORY



On average, the verdict amount was reduced by over 67 percent before the case was finally settled. The verdict and settlement amounts are shown in Figure 23.

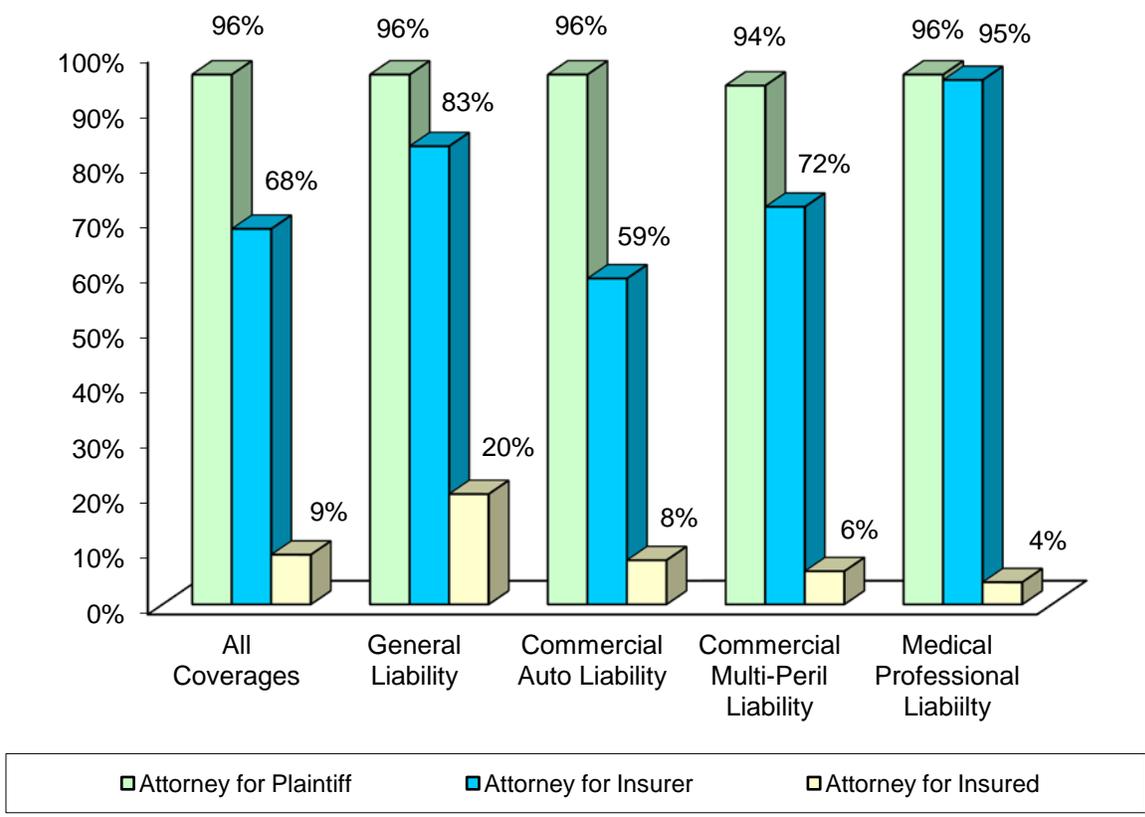
FIGURE 23
COURT VERDICT VS. SETTLEMENT AMOUNT

	Claims	Total Verdict Amount	Total Settlement Amount	Amount of Difference	Percent Difference
Verdict More Than Settlement	29	\$106,310,406	\$34,601,922	(\$71,708,484)	(67.5%)
Verdict Equal to Settlement	16	\$6,904,189	\$6,904,189	\$0	0.0%
Verdict Less Than Settlement	10	\$4,255,261	\$9,005,175	\$4,749,914	111.6%
Total	55	\$117,469,856	\$50,511,286	(\$66,958,570)	(57.0%)

The data from all 4,934 reports shows that 96 percent of all cases indicated the involvement of an attorney on behalf of the injured person (plaintiff), while 68 percent indicated an attorney for the insurer, and 9 percent 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 603 multiple-defendant cases that were settled before a court verdict, and 12 judgments involving multiple defendants. In 51 (9 percent) of the 603 cases settled prior to a court verdict, the doctrine of joint and several liability impacted the settlement. Three of the 12 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 474 cases (18 percent of all Long Form settlements) indicate some fault attributable to the injured person. These 474 cases had a median settlement amount of \$175,000 (smaller than all Long Forms' median of \$175,500) and, on average, estimated the injured person to be 35 percent 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
SETTLEMENTS OVER \$25,000

Line of Insurance	Total Number of Suits Filed	Number of Suits Filed in County Other Than Where Injury Occurred	Percent of Total
General Liability	533	57	10.7%
Commercial Auto	1,542	204	13.2%
Commercial Multi-Peril	377	45	11.9%
Medical Professional	366	19	5.2%
Other Professional	24	0	0.0%
All Lines	2,842	325	11.4%

A total of 3,167 forms reported that suits were filed with 2,842 filed in the county of injury. Three hundred twenty-five forms indicated that the suit was filed in a county other than the county where the injury occurred. The median settlement amount in the 2,842 cases was \$100,000, while the median settlement amount in the remaining 325 cases was \$137,359. Figure 26 on the following page shows the counties with an influx of five or more lawsuits.

FIGURE 26
CHOICE OF VENUE
COUNTIES THAT GAINED FIVE OR MORE LAWSUITS
SETTLEMENTS OVER \$25,000

County	Number of Suits Filed	Number of Suits Incoming	Percent of Suits Incoming	Median Settlement Amount of Suits Filed in County Listed
Dallas	331	55	16.6%	\$100,000
Harris	643	52	8.1%	\$95,000
Nueces	80	20	25.0%	\$96,250
Webb	59	15	25.4%	\$200,000
Bexar	215	14	6.5%	\$120,000
Tarrant	151	13	8.6%	\$90,000
Hidalgo	175	12	6.9%	\$100,000
Jefferson	101	11	10.9%	\$100,000
Travis	102	11	10.8%	\$87,674
Galveston	33	7	21.2%	\$83,750
Rusk	21	7	33.3%	\$115,000
Starr	23	6	26.1%	\$100,000
Brazos	16	5	31.3%	\$72,500
El Paso	104	5	4.8%	\$76,000
Harrison	15	5	33.3%	\$120,000
Johnson	31	5	16.1%	\$125,000
Counties Listed	2,100	243	11.6%	\$100,000
Counties Not Listed	1,067	82	7.7%	\$115,000
All Counties	3,167	325	10.3%	\$100,000

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	4,262	\$579,017,846	3.5	21.8	2.3	27.6
Multi-Party	672	\$188,147,735	14.7	26.2	4.2	45.1
All Parties	4,934	\$767,165,581	5.0	22.4	2.6	30.0

Figure 28 shows time comparisons among various lines of insurance. The data for other professional liability is included with general liability due to only 32 claims being reported for this line of insurance. Medical professional liability cases involve the longest average span of time (44.8 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	775	\$143,882,567	12.7	26.1	4.5	43.3
Commercial Auto	3,098	\$454,015,220	1.1	21.0	2.1	24.2
Commercial Multi-Peril	611	\$79,864,763	7.4	22.1	2.2	31.7
Medical Professional	450	\$89,403,031	15.4	26.4	3.0	44.8
All Claims	4,934	\$767,165,581	5.0	22.4	2.6	30.0

Figure 29 on the following page displays the average time in months 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 (131.5 months), which is almost four times the average of 34.1 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

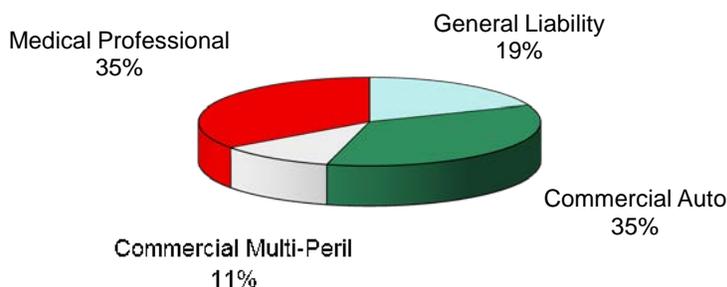
**ALL LONG FORMS TIME STUDY
BY INJURY TYPE (MONTHS)**

Injury Type	Number of Claims	Total Payments	Injury to Notice	Notice to Settlement	Settlement to Close	Injury to Close
Death	439	\$168,405,207	11.2	23.8	4.5	39.5
Amputation	46	\$16,589,816	8.3	26.0	2.9	37.2
Burns (Heat)	40	\$24,322,300	2.8	21.0	5.1	28.9
Burns (Chemical)	18	\$6,459,300	13.0	21.6	2.4	37.0
Systemic Poisoning (Toxic)	5	\$942,550	4.6	26.4	1.0	32.0
Systemic Poisoning (Other)	5	\$1,025,000	11.2	28.0	0.8	40.0
Eye Injury (Blindness)	18	\$5,244,363	8.8	31.5	2.8	43.1
Respiratory Condition	19	\$4,258,142	99.2	29.1	3.2	131.5
Nervous Condition	15	\$2,849,167	11.9	30.4	5.1	47.4
Hearing Loss/Impairment	6	\$1,200,000	5.2	28.5	3.3	37.0
Circulatory Condition	13	\$3,618,395	5.0	22.2	3.9	31.1
Multiple Injuries	794	\$201,264,987	2.5	23.4	2.9	28.8
Back Injury	878	\$201,445,623	2.7	26.0	2.6	31.3
Skin Disorder	6	\$1,408,500	14.8	26.3	6.8	47.9
Brain Damage	95	\$51,688,315	7.1	29.4	4.6	41.1
Scarring	88	\$30,565,365	5.7	23.9	2.8	32.4
Spinal Cord Injuries	67	\$33,830,825	5.8	25.7	3.7	35.2
Other	664	\$133,881,445	8.6	25.6	2.8	37.0
All Long Forms	2,574	\$676,899,455	6.3	24.8	3.0	34.1

Injury type is only reported on the Long Form. There were 439 injuries (17 percent) reported on the Long Form that resulted in death. As shown in figure 30, medical professional liability claims account for 35 percent of the death claims, commercial auto liability for 35 percent, general liability for 19 percent, and commercial multi-peril liability for 11 percent.

FIGURE 30

**DEATH CLAIMS
BY LINE OF INSURANCE**



Of the 2,574 settlements reported on Long Forms, 475 claims indicated work-related injuries. On a percentage basis, the business classification of oil wells and drilling indicated the highest rate of work-related injuries with 46.9 percent of the claims relating to the job, followed by construction firms at 36.7 percent, and other products manufacturers with 31.6 percent. 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)
Construction Firms	113	36.7%	\$282,207	25.2	36.8
Transportation	90	14.6%	\$336,194	23.9	29.6
Other	85	16.3%	\$222,145	27.4	37.2
Oil Wells and Drilling	75	46.9%	\$328,647	24.8	38.7
Other Products Manufacturers	36	31.6%	\$498,653	26.6	38.8
Wholesale-Retail Trade	30	10.8%	\$231,555	25.7	32.7
All Business Classes	475	18.5%	\$301,773	26.1	37.2

The 2011 Closed Claim Report data contains 255 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 \$273,472 was 76 percent more than the average of \$155,486 for all lines. The average ALAE for product liability claims of \$51,122 was more than the average of \$36,614 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	\$273,472	\$308,697	\$51,122	\$45,737	25.2
All Forms	\$155,486	\$183,492	\$36,614	\$30,653	22.4

Only 110 settlements indicated municipal/public liability as the insured business classification. Data derived from these reports show the average payment amount to be \$69,448, which is 55 percent less than the average of \$155,486 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	\$69,448	\$73,647	\$22,311	\$23,113	25.4
All Forms	\$155,486	\$183,492	\$36,614	\$30,653	22.4

**2011 Calendar Year
Annual Aggregate Closed Claim Report**

The 2011 Calendar Year Annual Aggregate Closed Claim Report was filed on an annual basis for bodily injury indemnity payments of \$25,000 or less. Six self-insured entities and 349 insurance companies are included in the Annual Aggregate Closed Claim Database. A summary of the Aggregate Closed Claim Report is presented below.

**ANNUAL AGGREGATE CLOSED CLAIM REPORT
INDEMNITY PAYMENTS 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	15,288	2,544	17,832	\$14,594,898
Other Professional Liability	459	97	556	\$532,643
Commercial Auto Liability	17,284	16,017	33,301	\$100,337,373
Commercial Multi-Peril Liability	7,917	3,222	11,139	\$16,801,125
Medical Professional Liability	3,259	146	3,405	\$1,420,157
Total	44,207	22,026	66,233	\$133,686,196

2011 Closed Claim Reconciliation Form

The department required companies to submit a reconciliation form for calendar year 2011 to ensure that all applicable closed claims were reported. The payments reported on Quarterly Closed Claim Reports with bodily injury over \$25,000 (Short and Long Forms) and the Aggregate Closed Claim Reports with bodily injury of \$25,000 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 2011 Annual Statement, *Texas Statutory Page 14*. **Self-insured entities did not complete a Reconciliation Form so they are not included in this section.**

There were 546 insurance companies that reported a total of \$2.3 billion direct losses paid on the 2011 Annual Statement, *Texas Statutory Page 14* for the lines of business mentioned in §§38.151, Texas Insurance Code. Thirty-seven percent 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 \$1.5 billion of direct losses paid involved amounts that were not reported during calendar year 2011 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 2011 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, and so on.

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, as a result, do not report it correctly in the settlement amount on a Closed Claim Report. This is a major reason for reporting the 2011 Closed Claim Annual Report on a payment basis instead of a settlement basis.

Line 9 shows direct losses paid by line of insurance on policies written in Texas for claims that were not settled under Texas law. Only claims settled under Texas law are reportable on the Closed Claim Reports.

Line 10 shows the amounts reported on Closed Claim Reports for policies written in another state where the claim was settled under Texas law.

Line 11 shows payments of \$25,000 or less that were reported both on Closed Claim Reports and the Annual Aggregate Closed Claim Report.

Line 12 shows \$21.1 million for total reimbursements received. This was primarily deductibles recovered for liability and property damage claims.

Line 13 shows adjustments made due to company rounding and estimating procedures.

Line 14 relates primarily to losses from catastrophes and class action suits that involve more than 10 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 Closed Claim Report to another line of insurance or company.

Line 19 shows Closed Claim Reports received during the reconciliation process.

Lines 20 and 21 indicate the amount of direct losses paid for each line of insurance as shown on the 2011 Annual Statement, *Texas Statutory Page 14*.

**TEXAS CLOSED CLAIM RECONCILIATION
FOR CALENDAR YEAR 2011
TOTALS FOR ALL 546 COMPANIES**

	General Liability	Commercial Auto	Commercial Multi-Peril	Medical Professional	Total
1. Payments Included in Quarterly Closed Claim Reports from the ATL	\$117,610,171	\$372,650,284	\$58,067,920	\$42,452,570	\$590,780,945
2. Payments Reported on Annual Aggregate Closed Claim Report	\$14,743,039	\$97,472,830	\$16,801,125	\$756,372	\$129,773,366
3. Total Closed Claim Payments Reported	\$132,353,210	\$470,123,114	\$74,869,045	\$43,208,942	\$720,554,311
Adjustments to Line 3					
4. Property Damage Losses Paid	\$262,427,816	\$188,941,644	\$78,522,176	\$849	\$529,892,485
5. Other Losses Reported on <i>TX Statutory Page 14</i> that Did Not Entail Bodily Injury	\$402,586,035	\$53,323,536	\$13,967,132	\$1,034,687	\$470,911,390
6. Payments on Claims Not Closed in Calendar Year 2011	\$147,805,824	\$108,229,415	\$27,710,144	\$11,955,994	\$295,701,377
7. Payments Made Prior to Jan. 1 on Claims Closed During the Year 2011	(\$68,317,806)	(\$64,806,376)	(\$14,480,677)	(\$15,802,714)	(\$163,407,573)
8. Excess Coverage Payments Not Reportable on Quarterly Closed Claim Reports	\$220,279,920	\$9,539,943	\$1,163,283	\$157,898	\$231,141,044
9. Losses Paid on Claims Not Settled Under Texas Law	\$129,654,266	\$52,514,919	\$9,102,203	\$2,020,529	\$193,291,917
10. Payments on Claims Reported on Policies Written in Another State	(\$7,317,550)	(\$48,605,970)	(\$4,232,993)	(\$200,000)	(\$60,356,513)
11. Payments of \$25,000 or Less That Were Reported on Quarterly Reports	\$0	(\$99,456)	(\$50,000)	\$0	(\$149,456)
12. Reimbursements Received	(\$11,377,787)	(\$8,112,709)	(\$1,487,128)	(\$74,090)	(\$21,051,714)
13. Rounding and Statistical Adjustments	(\$1,810,570)	(\$2,388,297)	(\$156)	\$2,209,563	(\$1,989,460)
14. Unusual Circumstances	\$1,429,334	\$0	\$0	\$0	\$1,429,334
15. Unreconciled Amounts	\$3,841,422	(\$1,607,115)	(\$673,818)	\$568,492	\$2,128,981
16. Payments for Claims on the Closed Claim Report of Unaccepted Transactions	\$218,333	\$1,621,494	\$325,032	\$200,000	\$2,364,859
17. Closed Claim Subtractions	(\$45,917,496)	(\$70,348,246)	(\$13,117,368)	(\$4,207,000)	(\$133,590,110)
18. Closed Claim Additions	\$24,067,883	\$50,876,753	\$25,041,001	\$426,403	\$100,412,040
19. Late Quarterly Closed Claim Reports	\$35,682,730	\$82,050,822	\$10,244,245	\$6,559,470	\$134,537,267
20. Sum of Lines 3 Through 19, (Must Equal Line 21)	\$1,225,605,564	\$821,253,471	\$206,902,121	\$48,059,023	\$2,301,820,179
21. Annual Statement Texas Statutory Page 14, Direct Losses Paid	\$1,225,605,564	\$821,253,471	\$206,902,121	\$48,059,023	\$2,301,820,179

Additional Information

The data used for developing this report is available on TDI's website at www.tdi.texas.gov

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