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# Legal System Abuse

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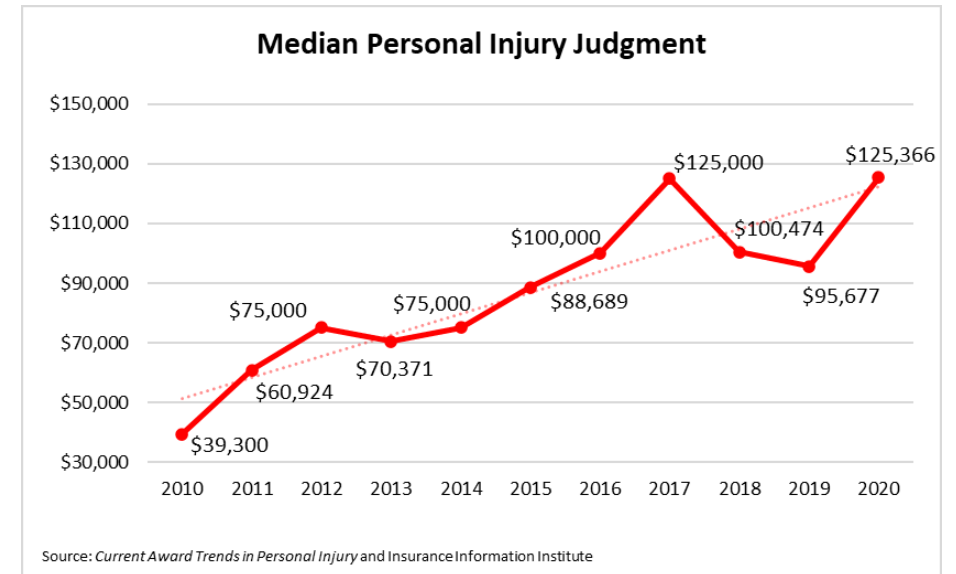
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# Legal System Abuse & Social Inflation

Social Inflation encapsulates how insurers' claims costs are rising above economic inflation

## Social Inflation can arise from myriad sources

- Increase in number of outsized jury awards
- Legal proceedings taking longer than reasonably expected
- Erosion of statutory limits on non-economic damages



## Power in the Name – What do we call it?

- Insurance professionals commonly use "Social Inflation" - but consumers cannot define it
- No name is perfect – we are transitioning to "Legal System Abuse" outside the industry

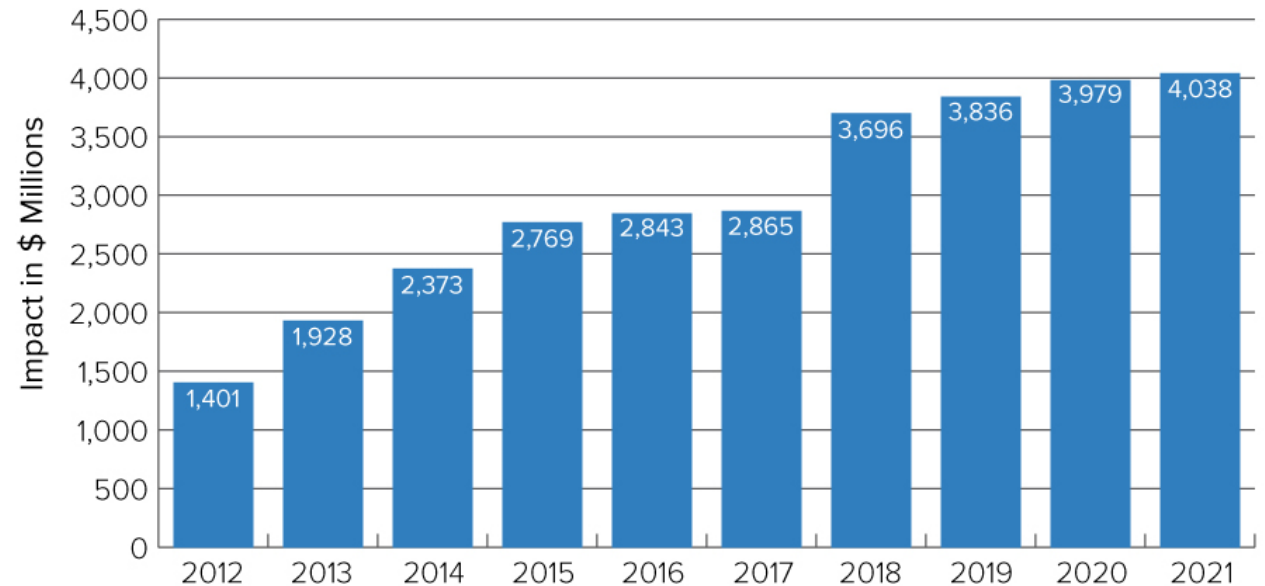
# Financial Impact

Triple-I published research in February 2022 to quantify the impact of social inflation. Research was funded by CAS Research Grant, and update to be released early in 2023

## Key Findings

- Social Inflation contributed to **increased claims** by estimated **\$30-34B (18-20%)** from 2012 to 2021 in Commercial Auto Liability
- Research suggests Social Inflation could be causing losses to increase faster than general inflation by 2-3% per year
- Evidence of similar trends found in Other Liability Occurrence and Medical Malpractice Claims-made

Case-incurred estimate of impact of social inflation by year  
P&C Industry - commercial auto liability



\*Triple-I and Casualty Actuarial Society analysis of National Association of Insurance Commissioner (NAIC) data. [Social Inflation and Loss Development - An Update](#), Lynch, J. and Moore, D., March 2023

Issues Brief [State of the Risk: Social Inflation](#)

# And then there's...Third-Party Litigation Funding

Hedge funds and others invest in lawsuits in exchange for a cut of any settlement

- Taking hold in U.S. as courts erode bans on "Champerty" and "Maintenance"
- TPLF is a speculative financial industry and comparatively unregulated

*"Original purpose of champerty prohibitions was to **prevent financial speculation in lawsuits**, and it was rooted in a **general mistrust of litigation** and money lending."*

— [Analysis by Steptoe](#), an international law firm

## Swiss Re study:

- More than half the **\$17 billion invested in litigation funding globally** in 2020 was deployed in the U.S.
- Despite the widespread court closures during the pandemic, third-party **investment jumped 16%** year-over-year in 2021.
- **\$30+ billion industry** by 2028, with U.S. market driving growth

# Third-Party Litigation Funding

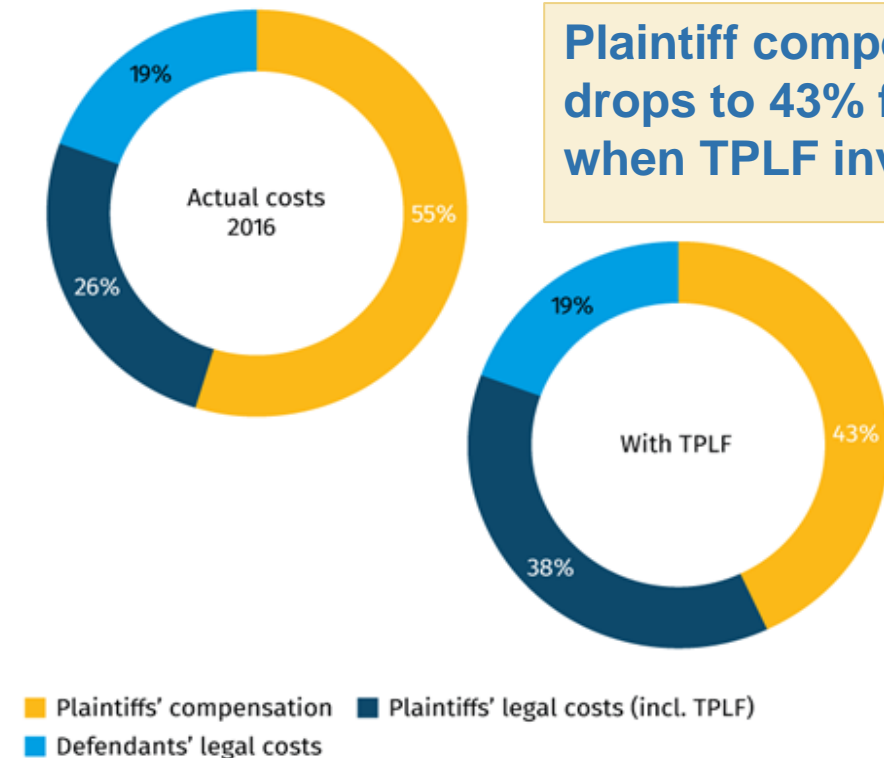
## Who typically provides this money?

Deep-pocketed investors – accredited investors, hedge funds, financial institutions, asset managers, other large funds – seeking above-average returns on their investments

## What kinds of cases are funded?

- Torts and contract breaches
- Personal injury
- Class Action
- Intellectual Property
- Whistleblower
- Arbitration

## Distribution of tort system costs without TPLF (left) and with TPLF (right)



Source: Swiss Re, Institute for Legal Reform, Research Nester

# What can be done...Thought Leadership Campaign



## Triple-I contracted with a public affairs firm to conduct 2022 thought leadership campaign

- Approach starts by driving a substantive conversation with Triple-I members, opinion leaders, regulators, and policymakers
- Expands the audience to consumers via social media
- Leverages Triple-I content on social inflation, expanding to include industry allies, legal reform groups, and third parties
- Target states: New York, Louisiana, Illinois, California

**Goal: Lay the groundwork for legal reform in states that could pass third-party litigation funding legislation in coming years**

# Climate Risk x Legal System Abuse = Property Crisis

Compounding of cats, fraud, and legal system abuse has led to a property crisis in key states

## Florida

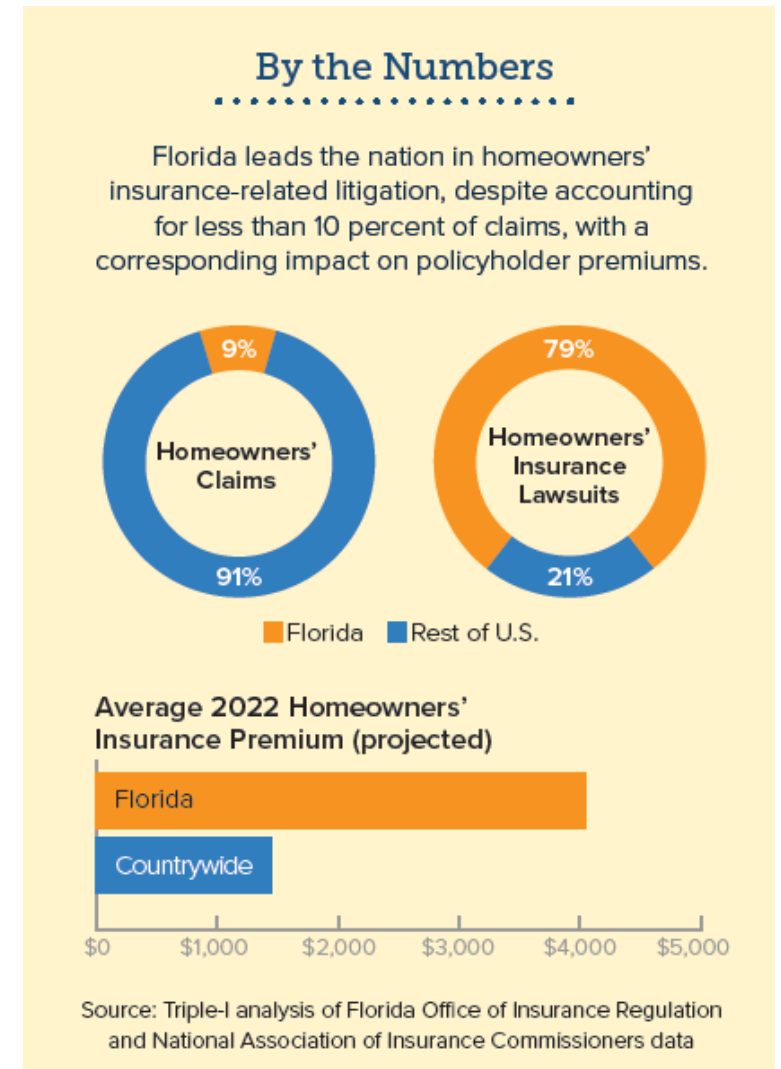
- \$51B was paid out by insurers over 10-year period, with 71% going to attorneys' fees and public adjustors\*
- Six companies have been declared insolvent in 2022 (so far)
- Citizens Property Insurance Corp. now insures over 1M policies

## Louisiana

- 2021 Industry Combined Ratio of 462 pts and Underwriting Loss of \$7.2B due primarily to Hurricane Ida
- Nine companies have been declared insolvent in 2022 (so far)
- Lawsuit environment costs the state \$3.9B in lost economic activity, imposing a "tort tax" of \$451 per resident annually\*\*

\*Florida Office of Insurance Regulation

\*\*American Tort Reform Association



# PANEL Q&A

Fred Karlinsky, Shareholder, Co-Chair Insurance Regulatory & Transactions Practice, Greenberg Traurig

Tiger Joyce, President, American Tort reform Association



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