The Verdict Is In: How Social Inflation Is Reshaping Insurance Risk

June 9, 2026

Sponsored by:

Alan Gray
A PREMIA COMPANY

MEET YOUR PANEL

John DeLascio, Esq.

Partner

Hinshaw & Culbertson LLP

E-Mail: JDeLascio@hinshawlaw.com

Telephone: 312-704-3664

Roberta Fitzpatrick

Managing Attorney

Arbella Mutual

E-Mail: Roberta.fitzparick@arbella.com

Telephone: 617-769-3511

Jonathan Gordon

Director of Reinsurance Services

Alan Gray

E-Mail: jgordon@alangray.com

Telephone: 781-303-6924

Brooke Skolnik

VP, Specialty Casualty Claims

Sompo

E-Mail: bskolnik@sompo-intl.com

Telephone: 646-681-0167

Craig Thompson, Esq.

Partner

Venable LLP

E-Mail: CAThompson@Venable.com

Telephone: 410-244-7605

TODAY'S AGENDA

- Social Inflation Overview
- Carrier and Claims Considerations
- Reinsurance Issues
- Social Inflation and Litigation
- Tort Reform
- Take Aways and Questions

Social Inflation Overview

Social Inflation

The most important insight:

Social inflation is not a phase. It is a structural change in legal culture.

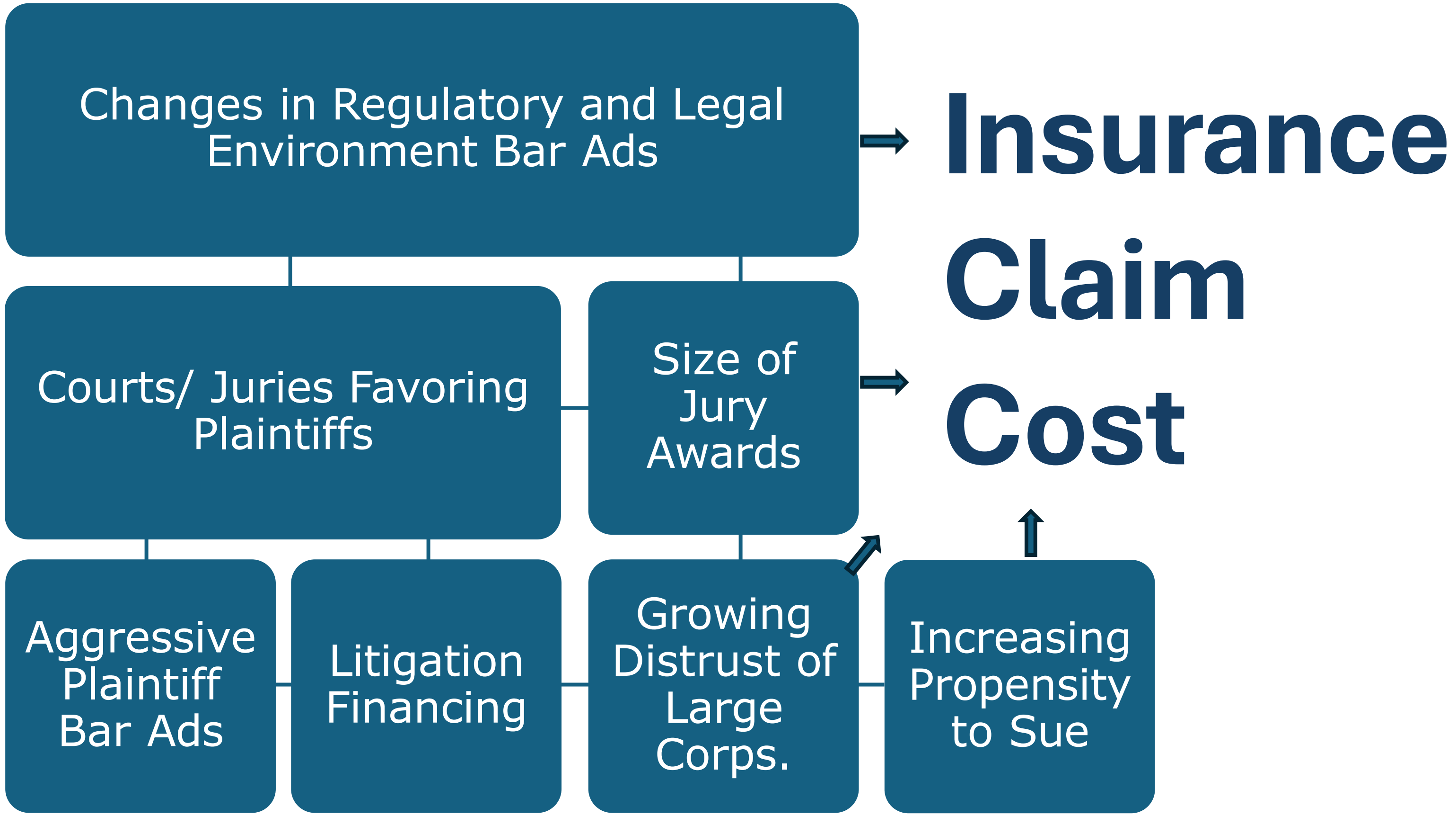
Social inflation is Structurally Permanent, Not Cyclical

Which means:

Pricing Permanently Adjusts Upward	Coverage Permanently Tightens	Risk Management Becomes More Aggressive

Social Inflation

Social Inflation: Many Interrelated Causes, Difficult to Manage



Applied to a seemingly limitless number of issues,
these drivers are pushing tort costs (and therefore claim costs upward)

[1]

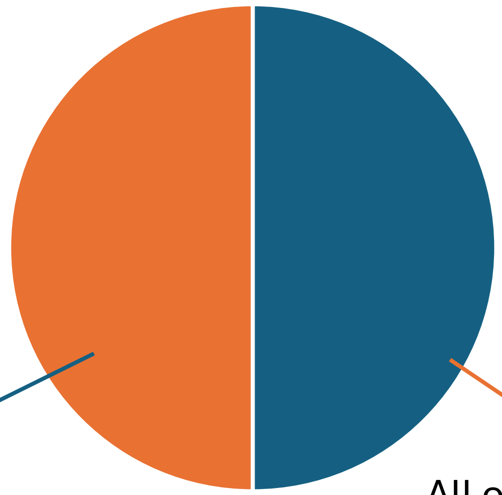
Social Inflation Overview

Only about 25% of nuclear verdicts include punitive damages

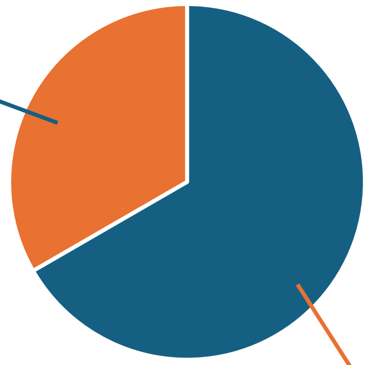
Two-thirds of nuclear verdicts in personal injury and wrongful death cases are in product liability, auto accident, and medical liability cases

About 10% of nuclear verdicts include economic damages, e.g., lost income, medical costs

Nuclear Verdicts



State Population



[2]

Social Inflation

Bayer to pay $1.6b to settle
s of US Essure injury

Missouri farm awarded $265M in suit
against BASF and Bayer

Johnson & Johnson, distribut
finalize $26B opioid settleme

Judge approves $600 million
settlement for Ohio residents
r 2023 train derailment

V's $14.7
Over

Bayer ordered to pay more than $2

BD settles majority of 38,000 lawsuits
over dangerous surgical mesh

egal

air bag
scandal, agrees to pay $1B

over cont
with 'fore

claims involving contaminated water
at Camp Lejeune continues to grow

s Johnson &

GM Reaches $120m Settlement With
States Over Switches

DOJ: B
billion
afte

Judge OKs $626 million

Cook Medical defends its products after
another IVC filter company loses court case

$8 billion Risperdal award
against J&J to $6.8 million

Juul
state

sold defective

pay $302M
in pelvic mesh case

suits seeking damages for
ach $4B global settlement,
court filings say

GSK strikes $2.2bn deal to resolve legal
cases in US over heartburn treatment
Zantac

PG&E s
victims of California wildfires

Carrier and Claim Considerations

Carrier and Claims Considerations

- Claims Handling
- Reserving
- Risk Assessment
- Actuarial Models
- Defense Strategies
- Settlements
- Insurance Coverage
- Allocation
- Reinsurance Market
- Underwriting
- Litigation Funding
- Punitive Damages

Carrier and Claims Considerations:

Carrier and Insured Relationship

$529B U.S. Tort System Costs and Compensation (as of 2022)

First Prong:

Impacts Policyholders and Insurers Alike

Second Prong:

Targeting Insurers

Third Prong:

Cost to U.S Households

$4,200+ each

Three Prongs Of Social Inflation

[3]

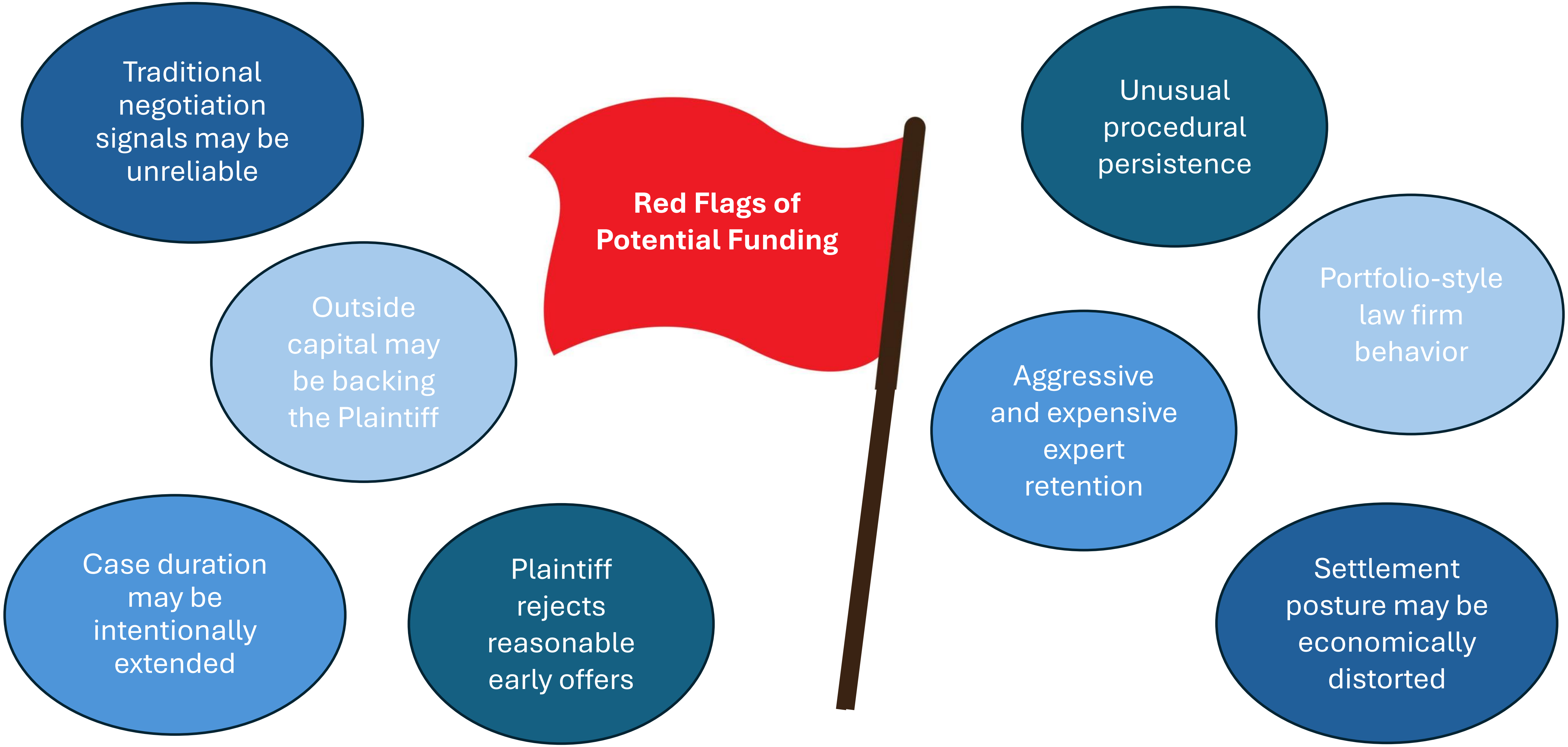
Carrier and Claims Considerations

Bad Faith Exposure in a Nuclear Verdict Environment

When Does Bad Faith Exposure Arise?	What the Documentation Trail Must Show
-Carrier fails to settle within policy limits when liability is *reasonably* clear	-Timely investigation and ongoing file documentation at every stage
-Carrier delays responding to settlement demands which can increase trial risks	-Written analysis of settlement authority relative to venue risk <u>and</u> exposure
-Carrier inadequately investigates before making coverage or settlement decisions	-Evidence that the insured was kept informed of excess verdict risk
-Carrier prioritizes its own financial interests over the insured's exposure	-Contemporaneous records of every settlement demand, response, and decision rationale

[4]

Carrier and Claims Considerations



Carrier and Claims Considerations

Underwriting Strategy and Pricing

Breaking Historical Actuarial Assumptions

Higher Retentions

Commercial auto liability seems to be the origin of social inflation and most impacted. CITE IS IN NOTES 1)

Reshaping the Math

Higher Premiums

Narrower Coverage

Available capacity is declining and rate increases and loss trends are exceeding rate increases CITE IS IN NOTES 2)

U.S. commercial casualty losses reached $143 billion in 2023, following an average annual growth rate of 11% over the previous five years. For comparison, these losses were 33% higher than the $108 billion in global insured losses from natural catastrophes. CITE IS IN NOTES 3)

[5] [6] [7]

Reinsurance Issues

Reinsurance

Why Reinsurance?

Transfer of risk

Reinsurance Tower → WTC

Protect Policyholder surplus

Gain experience

Write additional business → Earned vs. Unearned premium and Ceding Commission

Save Face- withdrawal from market

Write larger policies

Reinsurance

Types of Reinsurance

Facultative

- **Protect the treaty**
- **High risk exposure**
- **Non admitted insurer**
- **One for one relationship between policy and certificate**
- **Usually base of reinsurance tower**
    - Inures to the benefit of the treaty

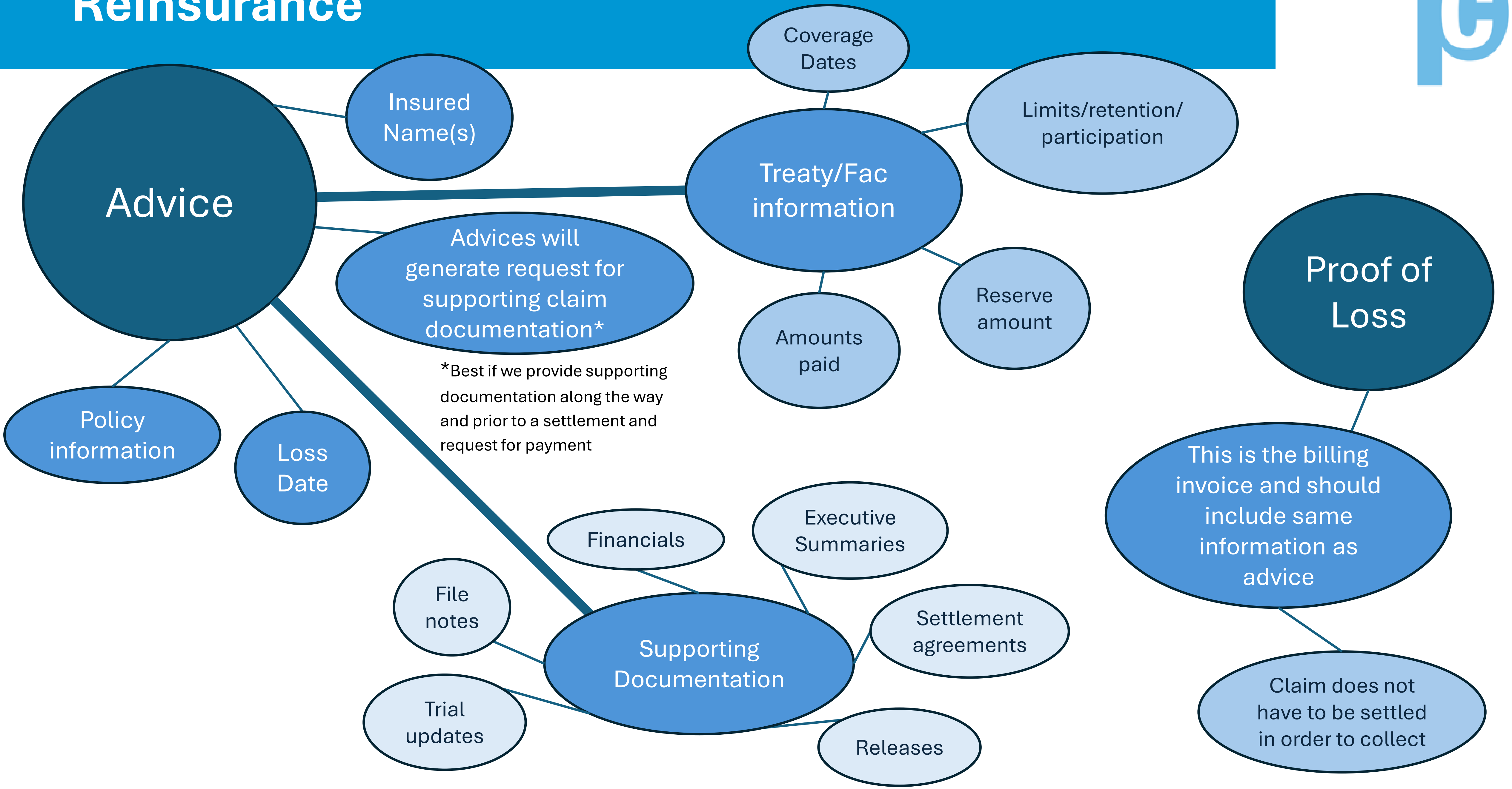
Treaty

- **Pro Rata**
- **Excess of Loss**
    - Aggregate Retentions and aggregate limits
    - CAT Treaties
        - *Very high attachments*
        - *Specific window of coverage*
    - Stop Loss

Expenses

- **UNL (Ultimate Net Loss)**
- **Pro Rata in addition**
    - Expenses cannot be collected until indemnity paid
- **Combination of both**

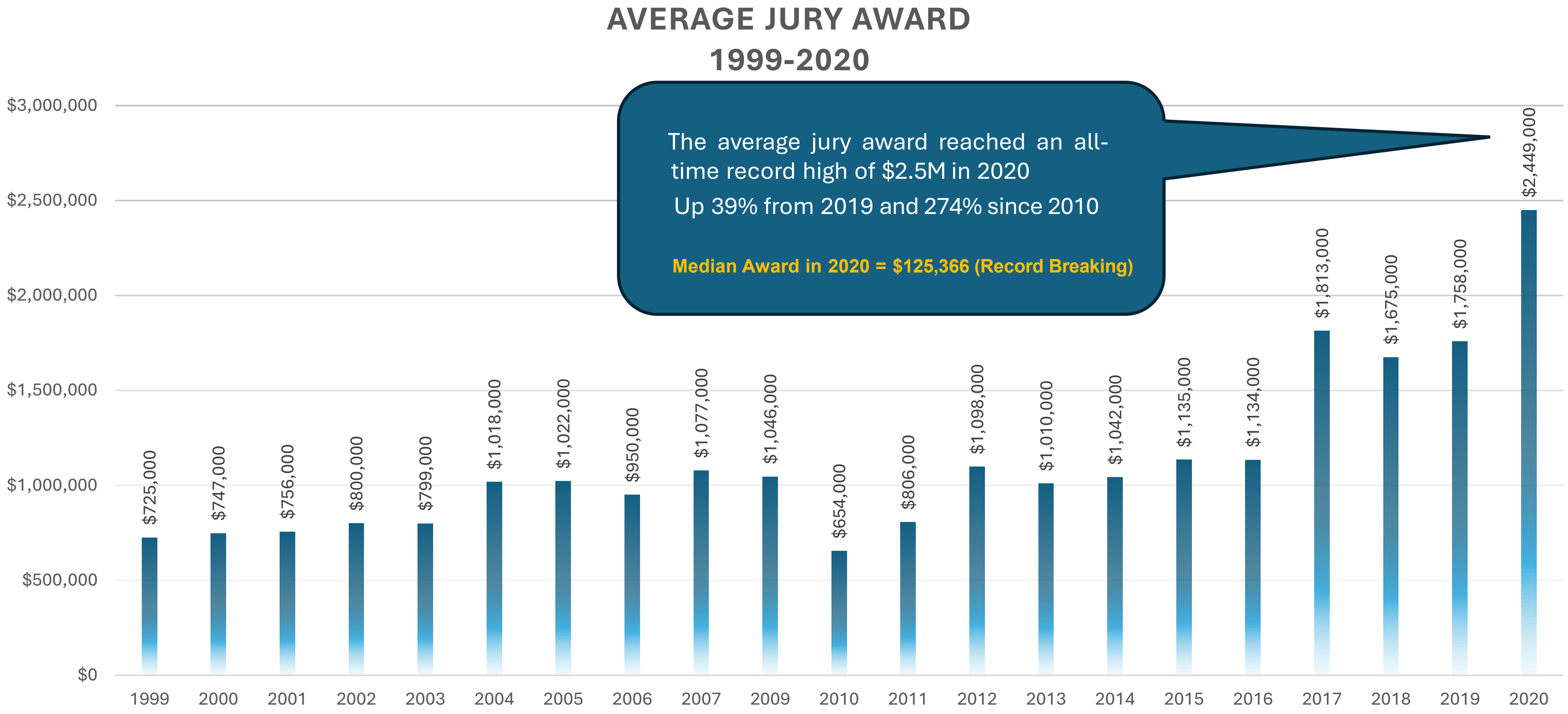
Reinsurance



Social Inflation and Litigation

Social Inflation and Litigation

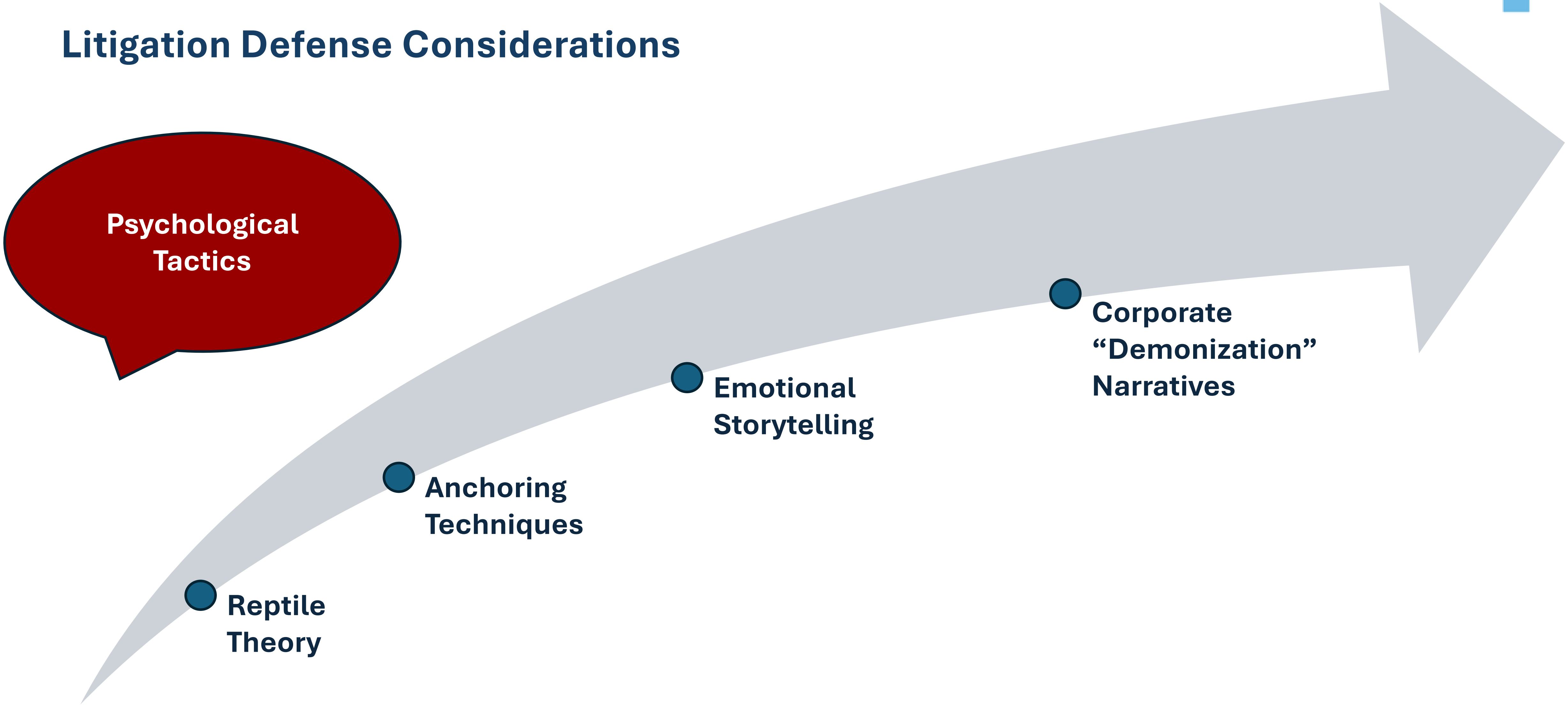
National Trends for Average Jury Awards



[8]

Social Inflation and Litigation

Litigation Defense Considerations



Social Inflation and Litigation

Social Inflation is Fundamentally Cultural, *Not Economic*

Nuclear Verdicts and Jury Behavior

- News Of Extreme Jury Awards
- Attorney Advertising
- Changing Juror Mindsets
- Cultural Shifts

Social Inflation and Litigation

Nuclear Verdicts and Jury Behavior

Key Cultural Shifts

Growing distrust of corporations and institutions

Increased belief that large companies should "pay" for social harm

Expanding definitions of negligence, emotional distress, and liability

Unlike economic inflation, social inflation is driven by changing "social attitudes" e.g., blame, fairness, and corporate responsibility.

Social Inflation and Litigation:

Nuclear Verdicts and Jury Behavior

Historically

Now

Jurors In the U.S. Are Increasingly Rejecting Traditional Damage Boundaries

Nuclear verdict risk is a significant challenge, with 135 lawsuits against corporate defendants resulting in awards greater than $10M in 2024. With 49 verdicts going "thermonuclear" with awards greater than $100M.

Economic loss → compensable
Pain & suffering → capped or restrained

Emotional harm, Psychological distress, "Loss of enjoyment of life", Future speculative damages

[9]

Tort Reform

Tort Reform

In February 2026, Senate Republicans reintroduced the Litigation Funding Transparency Act:

Require disclosure of third-party litigation funding in certain large federal civil proceedings, including federal class actions, multidistrict litigation proceedings, and coordinated or consolidated federal proceedings involving 100 or more civil actions.	Any entity in a covered action would be required to disclose the identity of any third-party litigation funder and provide the funding agreement to the court and named parties, unless otherwise ordered by the court.	The proposed bill would also require disclosure of whether the funder is a foreign state, foreign person, sovereign wealth fund, or foreign-controlled commercial enterprise.	It would also prohibit third-party funders from controlling or influencing litigation strategy, settlement negotiations, or other litigation decisions and restrict access to discovery materials covered by a protective order unless the court permits access

[10]

Tort Reform

- Require disclosure of third-party funding
- Restrict “anchoring” arguments
- Amend state rules of evidence to mirror revised Federal Rule of Evidence 702 for expert testimony
- Cap punitive / non-economic damages
- Prohibit trial consolidation
- Address legal service advertisements/ solicitation

Federal Rule of Evidence 702 requires proffered testimony to meet a “Preponderance of the evidence standard” and “that each expert opinion must stay within the bounds of what can be concluded from a reliable application of the expert’s basis and methodology.” With judges serving a “gatekeeping” role to ensure appropriate application (Effective as of December 1, 2023)

Wrap Up:

Takeaways and Questions

YOUR PANEL

John DeLascio, Esq.

Partner

Hinshaw & Culbertson LLP

E-Mail: JDeLascio@hinshawlaw.com

Telephone: 312-704-3664

Roberta Fitzpatrick

Managing Attorney

Arbella Mutual

E-Mail: Roberta.fitzparick@arbella.com

Telephone: 617-769-3511

Jonathan Gordon

Director of Reinsurance Services

Alan Gray

E-Mail: jgordon@alangray.com

Telephone: 781-303-6924

Brooke Skolnik

VP, Specialty Casualty Claims

Sompo

E-Mail: bskolnik@sompo-intl.com

Telephone: 646-681-0167

Craig Thompson, Esq.

Partner

Venable LLP

E-Mail: CAThompson@Venable.com

Telephone: 410-244-7605

THANK YOU

CITATIONS

[1] Risk and Uncertainty Management Center, Univ. of South Carolina, adapted from Verisk "Social Inflation" presentation (2020); IRMI Webinar Series , Robert P. Hartwig, PhD, CPU, February 18, 2025

[2] Institute for Legal Reform Nuclear Verdicts Study, May 2024, Nuclear Verdicts: An Update on Trends, Causes, and Solutions

[3] "U.S. Chamber of Commerce Institute for Legal Reform, Tort Costs in America: An Empirical Analysis of Coasts and Compensation of the U.S. Tort System (Nov. 2024)

[4] Lowenstein Sandler LLP, "Insurer Bad Faith: New York Cracks Down on 'Wait and See' Claims Handling," October 2024

[5] Annmarie Geddes Baribeau, "Tipping the Scales: Measuring the Impact of Social Inflation," Actuarial Review, July 23, 2020, https://ar.casact.org/tipping-the-scales-measuring-the-impact-of-social-inflation/.

[6] Swiss re Institute, "Litigation costs drive US liability claims by 57% over past decade, reveals Swiss Re Institute," September 7, 2024

[7] Swiss Re Institute, "Litigation Costs Drive Claims Inflation: Indexing Liability Loss Trends," Sigma Report, 2024

[8] Jury Verdict Research; Current Award Trends in Personal Injury (61st Edition), Thomson Reuters; Risk and Uncertainty Management Center, Univ. of South Carolina.
IRMI Webinar Series, Robert P. Hartwig, PhD, CPU, February 18, 2025

[9] Marathon Strategies, Corporate Verdicts Go Thermonuclear: 2025 Edition, February 2026

[10] U.S. Congress, Senate. Litigation Funding Transparency Act of 2026. S. 3826, 119th Cong., 2nd sess., introduced 11 Feb. 2026. GovInfo, Litigation Funding Transparency Act of 2026