



Social Inflation: Its No Figment of Your Imagination

Jim Whittle

Vice President & Counsel, Liability

June 21, 2022



Nuclear Verdicts Explode

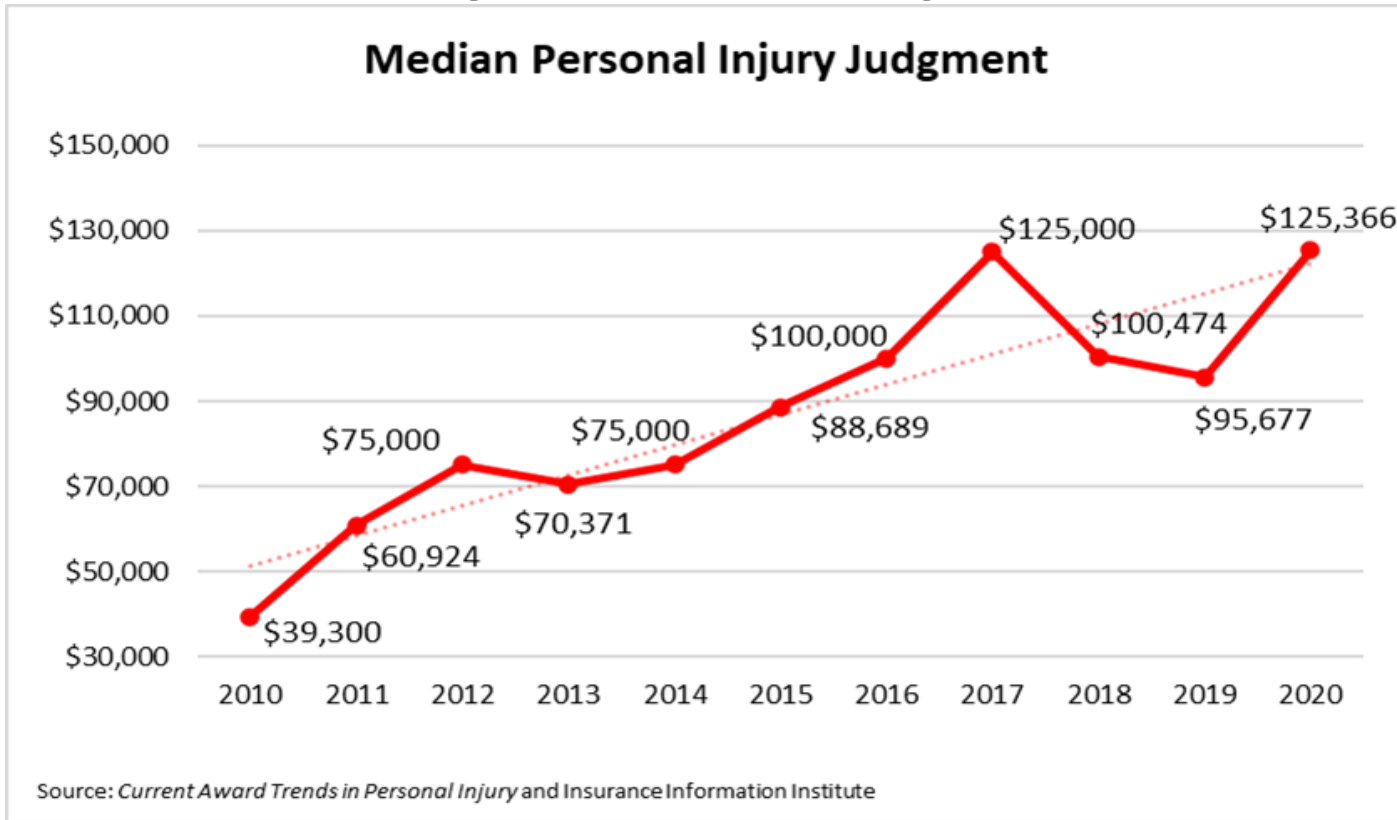
The **National Law Journal's Top 100 Verdicts** increased **350%** from an average of \$64 million in 2015 to \$225 million in 2020.

Now **routinely** see individual personal injury verdicts *exceeding \$1 billion*:

- *Murray v. Janssen Pharmaceuticals* (Risperdal Product Liability) -- \$8,000,000,000.
- *Pilliod v. Monsanto* (Roundup Product Liability) -- \$2,055,000,000.
- *Dzion v. AJD Business Services* (Truck Accident) -- \$1,000,000,000.

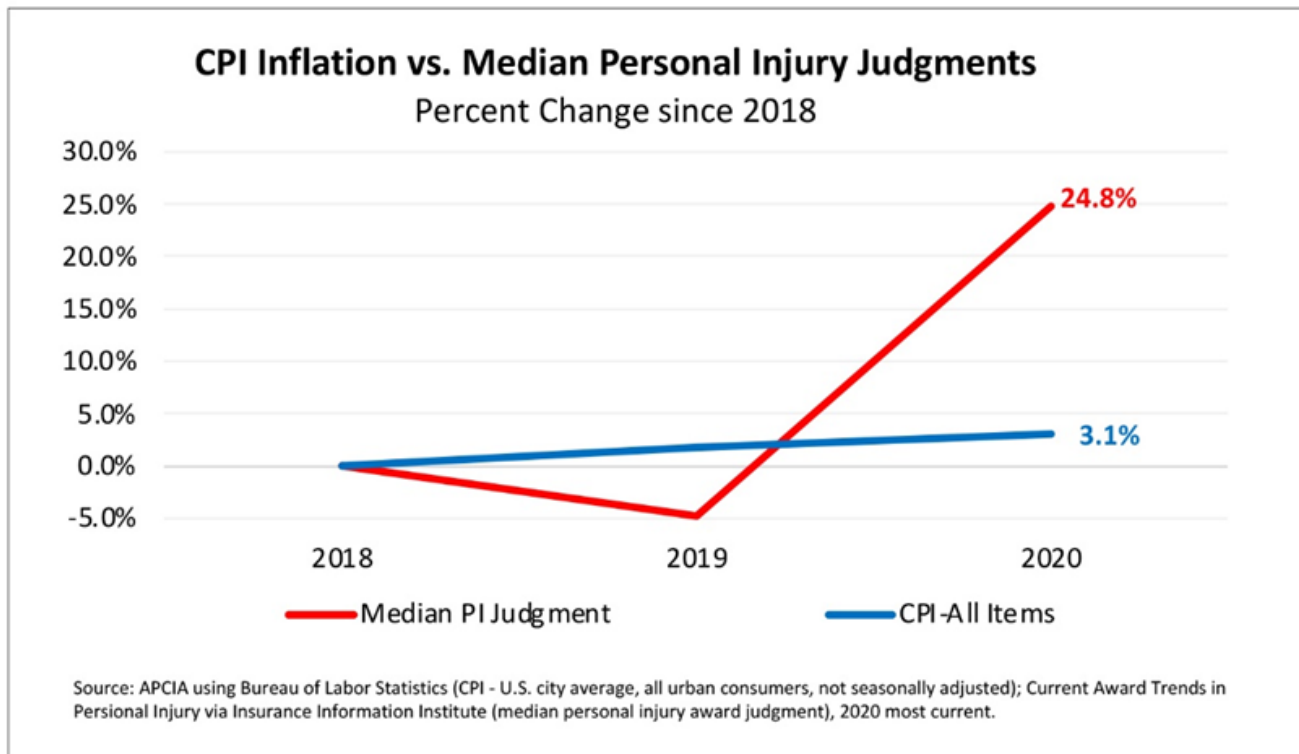


Customary Verdicts Explode Too





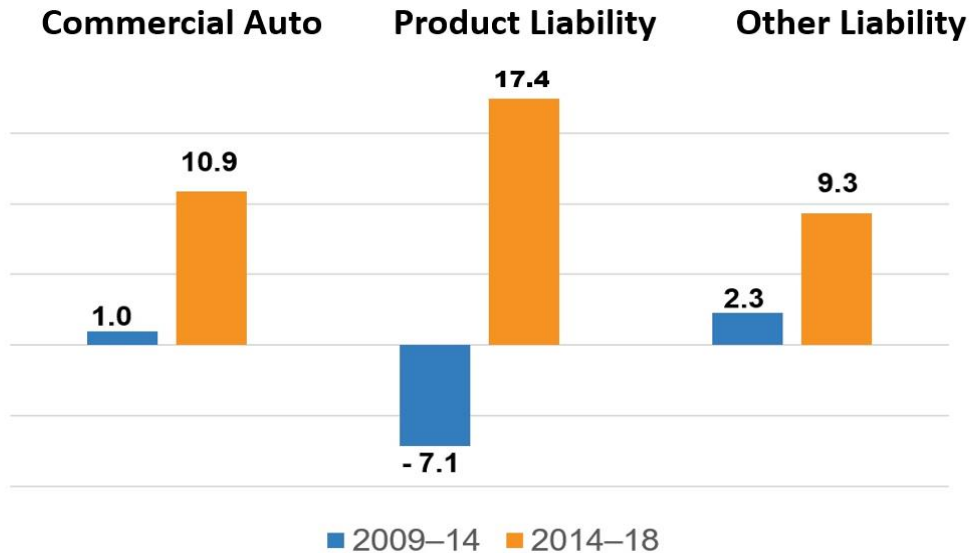
Inflation Doesn't Explain It





A Look at the Numbers

Annualized change in incurred losses



Insurance Research Council (IRC) published research in 2020

- Study was performed using NAIC data by line and state through 2018

Key Findings:

- Incurred Losses increasing significantly more than the pace of inflation and GDP from 2014-2018
- Evidence found in Commercial Auto, Product Liability, and Other Liability, and to a lesser degree in PersonalAuto

Inflation & Gross Domestic Product		
	2009-14	2014-18
CPI	2.0%	1.5%
GDP	3.9%	4.1%

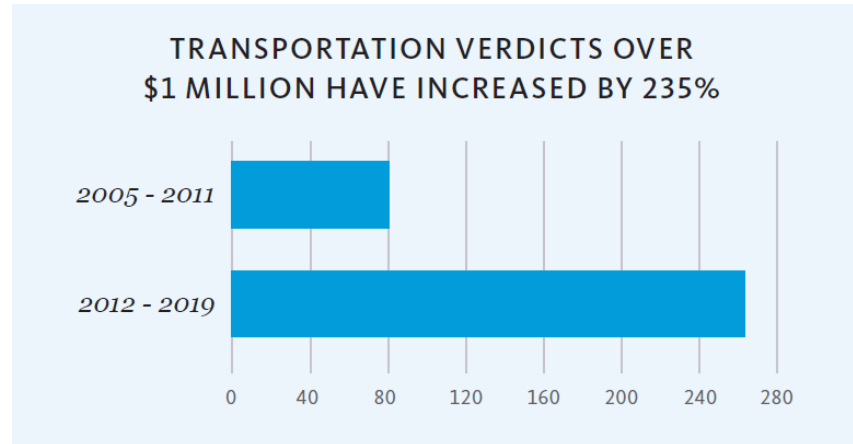
Source: Insurance Research Council, [Social Inflation: Evidence and Impact on Property-Casualty Insurance](#)



Nuclear Verdicts Are Rolling in Trucking

Understanding the Impact of Nuclear Verdicts on the Trucking Industry
June 2020

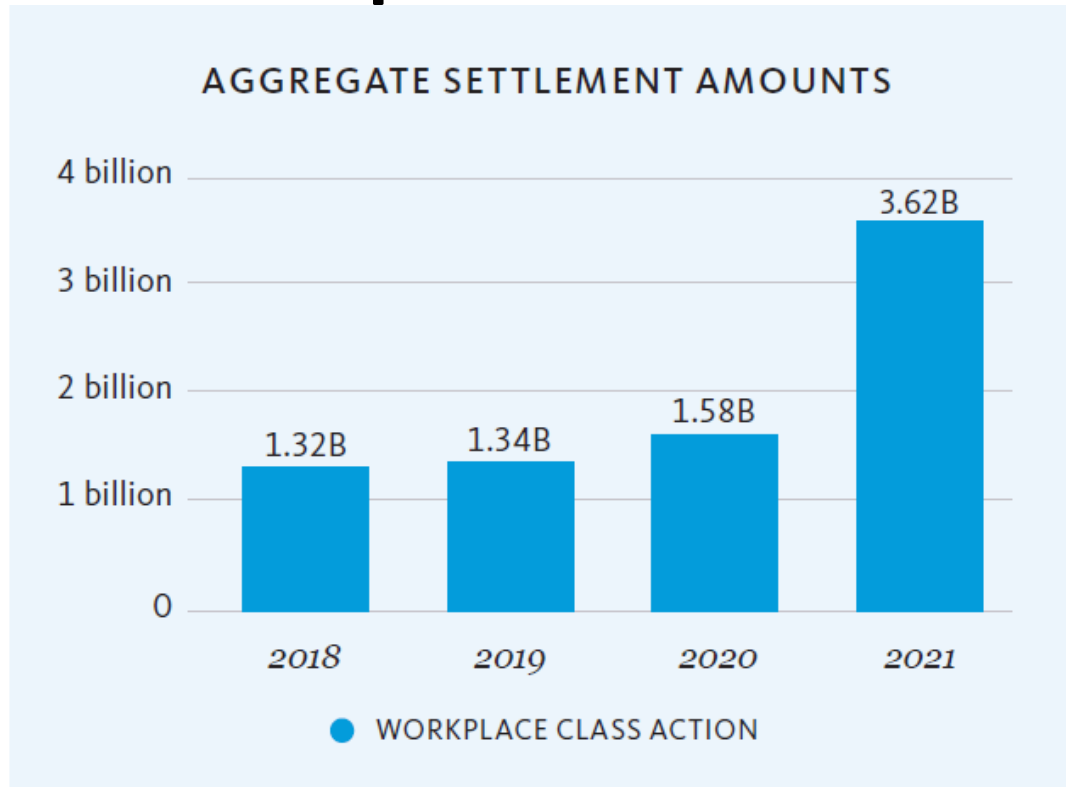
Prepared by the American Transportation Research Institute



- Between 2010 and 2018 the **average size of trucking verdicts over \$1MM increased by 1000%**.
- The **number of cases with verdicts over \$1MM grew by over 200%**.



Damages in Workplace Class Actions Way Up



Source: Sedgwick, Liability, litigation trends, drivers and strategies (April 2022)



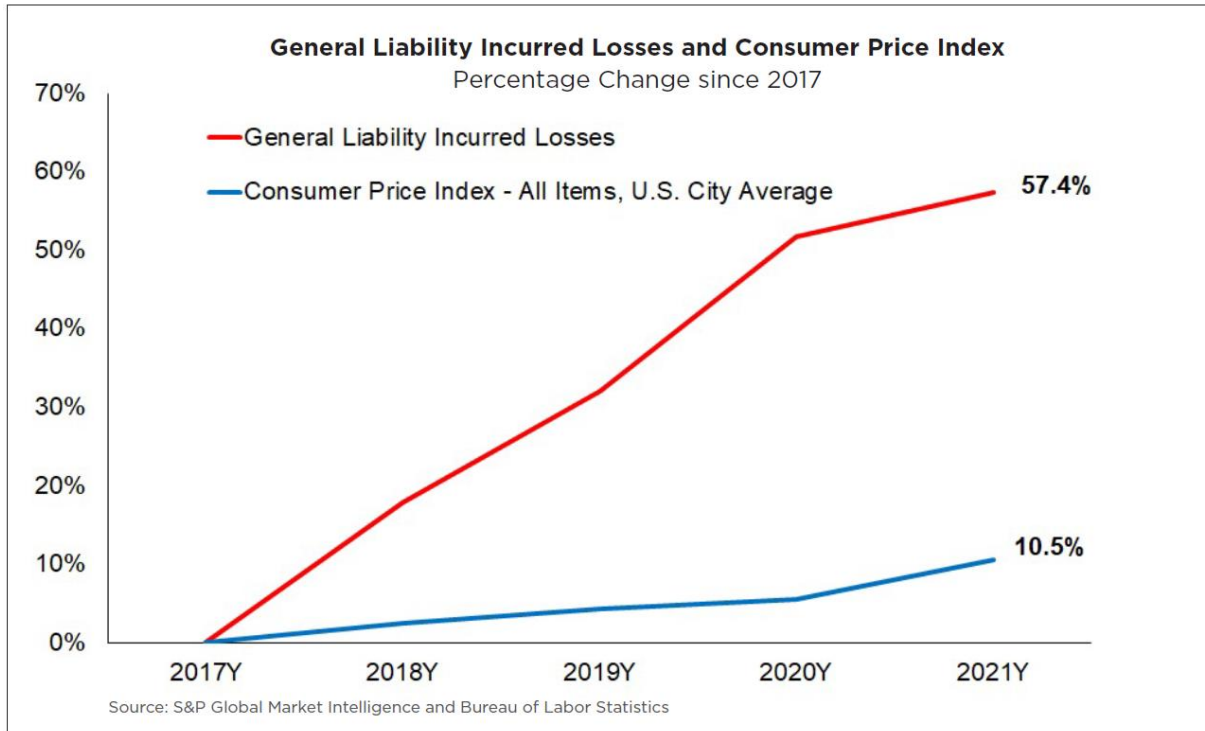
Single Fatality Claims Values Up Too

Median Cost of Single-Fatality
USA, Disposition Date





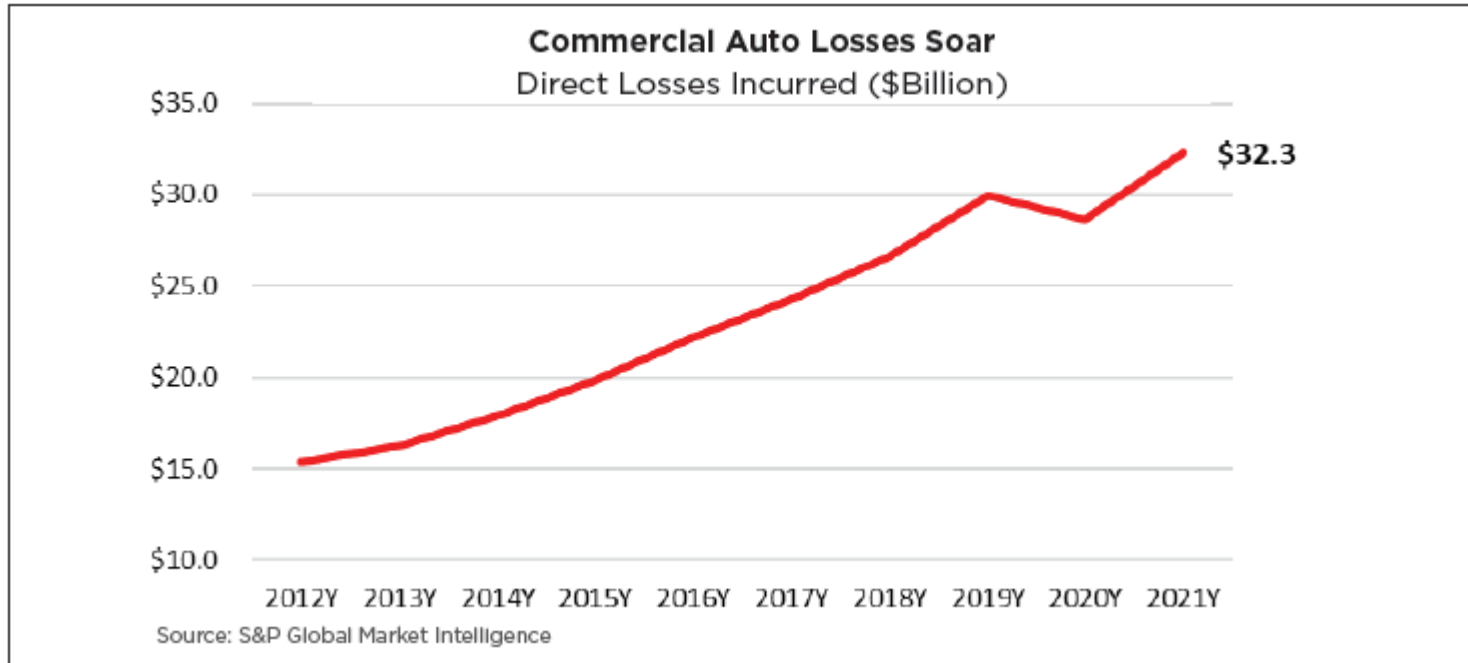
Commercial Insurance Market Nationwide General Liability Losses





Commercial Insurance Market

Nationwide Commercial Auto Losses





How did we get here? Social Inflation.

- Earliest description we've found was from Warren Buffett in 1977--"a ***broadening definition by society and juries of what is covered by insurance.***"
- Wall Street Journal has described it as --"an ***upward creep in perceptions by an injured party of what they are owed, their willingness to pursue that via the legal system, and what that means for insurance policies covering companies' liabilities.***"
- Insurance Research Council said that --"At its heart, ***social inflation begins with changes in attitudes and beliefs about entitlement to compensation for injury or loss and the willingness to pursue litigation or file an insurance claim against another individual or business in order to obtain that compensation.***"



Social Inflation—Drivers

- **Attorney Advertising**—way up in many jurisdictions increasing 38-53% over 7 years. Louisiana more than doubling! Florida saw spending increase 53% in 4 years compared to a national increase of only 12%.
- **Reptile Theory**—safety and survival; fight or flight; let them have it!
- **Jury Anchoring**—a straight value suggestion that may be devoid of facts.
- **Litigation Financing**—a growing challenge as unknown third parties seek to profit off injury. “We make it harder and more expensive to settle cases.”



Social Inflation—Drivers

- **Medical Financing**—it is really much more; its financing, liens, letters of protection, assignments, factoring. It drives claims build up for to profit.
- **Phantom Damages**—growing gulf in litigation between what is billed, and actual value of services received, particularly in medical care.
- **SOL Revivers**—reviving time barred claims really challenges defendants.
- **Bad Faith/Time Limit Demands**—this tort may appear particular to insurers, but it protects claims build up and fraud that all of us pay for.



Social Inflation—What is it doing?

- The feedback loop—social inflation begets more social inflation
- Bigger verdicts—nuclear (300% increases for the largest) and routine (up 250%).
- Resulting in ever more theories of "liability"
 - Public nuisance
 - Climate Change
 - No harm cases



QUESTIONS?

Thank you for having me!