



Commercial Insurance

State of the Market & Impact of Lawsuit Abuse

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June 21, 2022



State of the Insurance Market



Commercial Insurance Rates Rising: What Business Owners Need to Know
May 2022



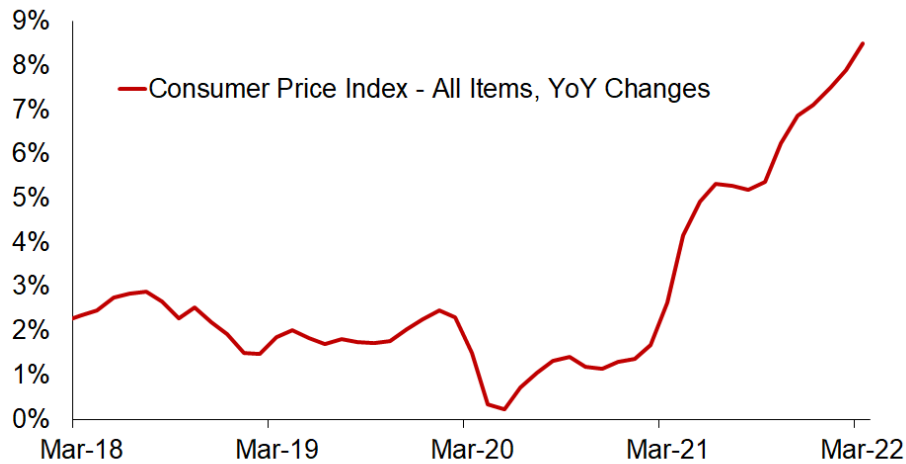
U.S. Property Insurance Market Struggles to Balance Supply & Demand
July 2021



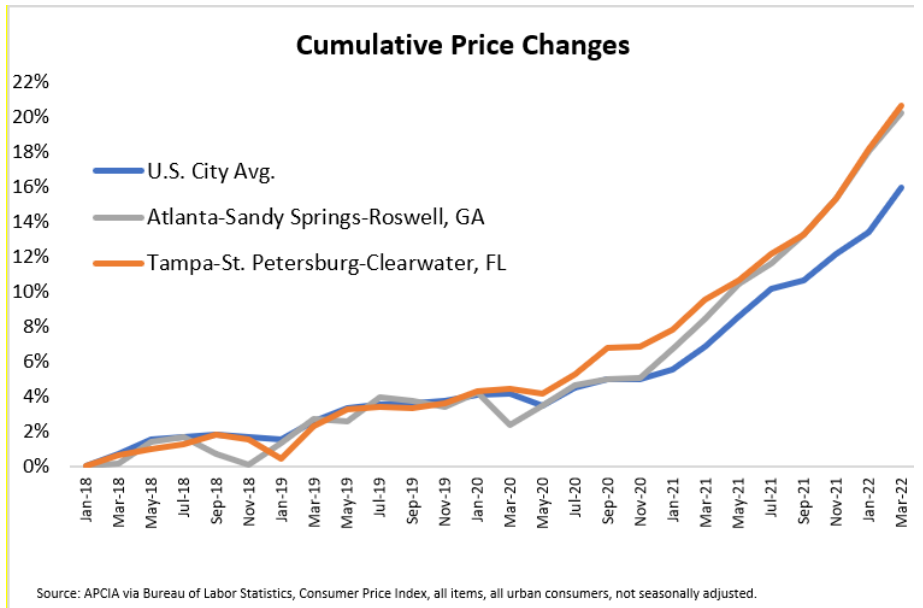
U.S. Auto Insurance Market Still Struggling Amid Pandemic
December 2021



Inflation Breaches 40-Year Record



Source: Bureau of Labor Statistics.



Source: APCI via Bureau of Labor Statistics, Consumer Price Index, all items, all urban consumers, not seasonally adjusted.



Inflation Dangers for P&C

- Losses (future) increase faster than rates
- Hard to get adequate rate increases to offset inflation
- Long-tail risk exposures may lead to inadequate reserves
- Increased exposures (esp. climate change, cyber, repairs)
- Volatility increases likelihood of overshooting (competitive risk) or undershooting (solvency risk)
- Potential impact on assets held (decline in value of bonds)



Auto Insurers Struggling to Keep Pace with the Highest Inflation in 40 Years

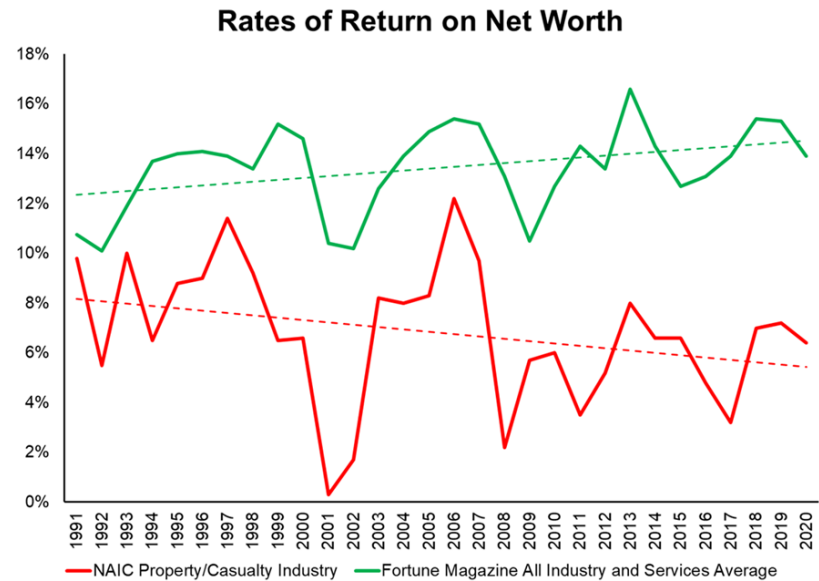
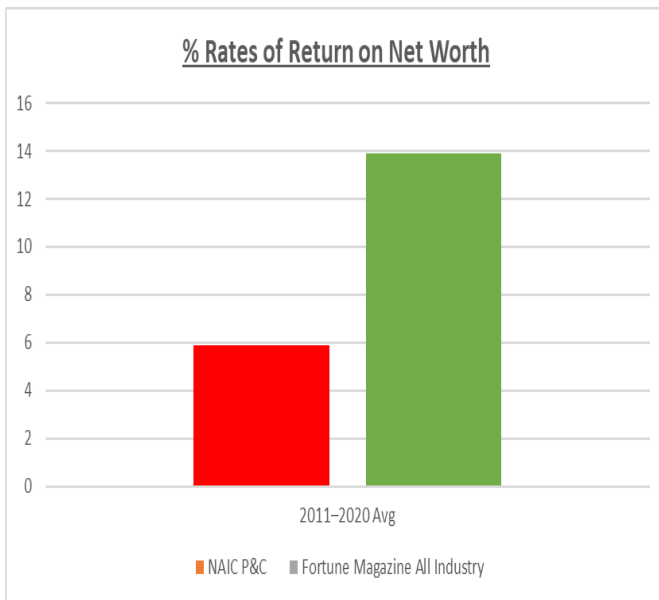
February 2022





P&C is Less Profitable Than Other Industries

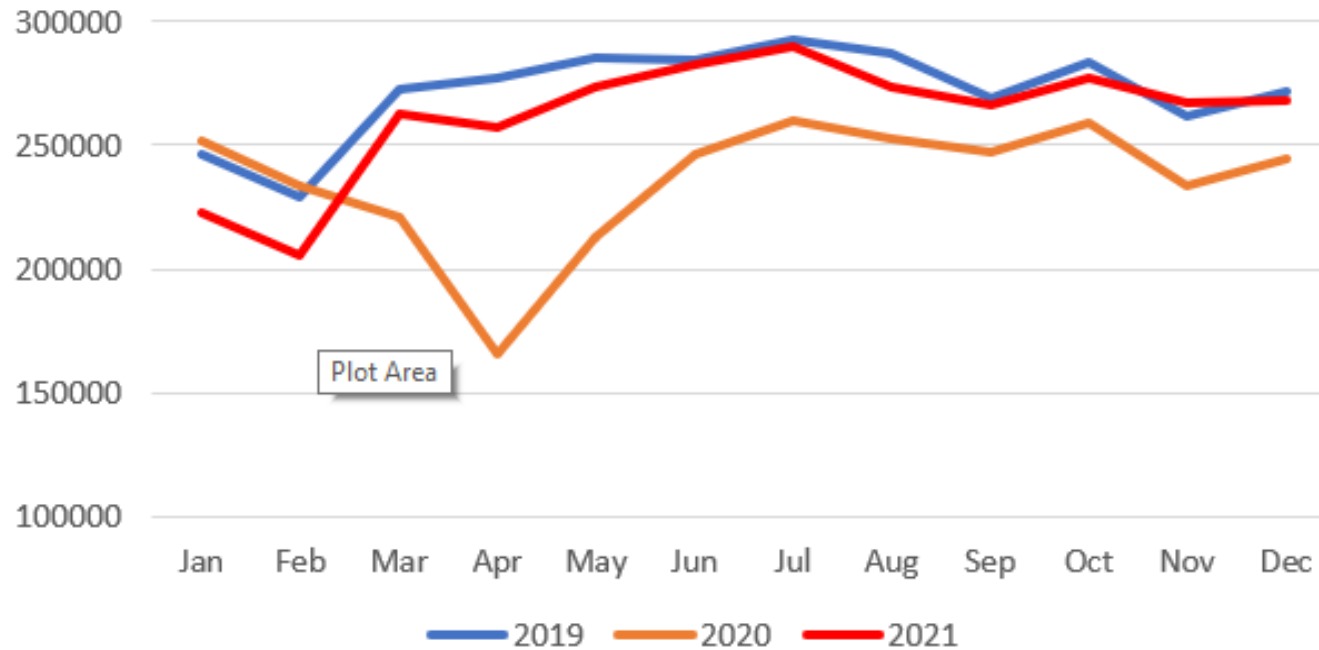
(P&C above 50% of Fortune Industries only in 2015 & 2020)





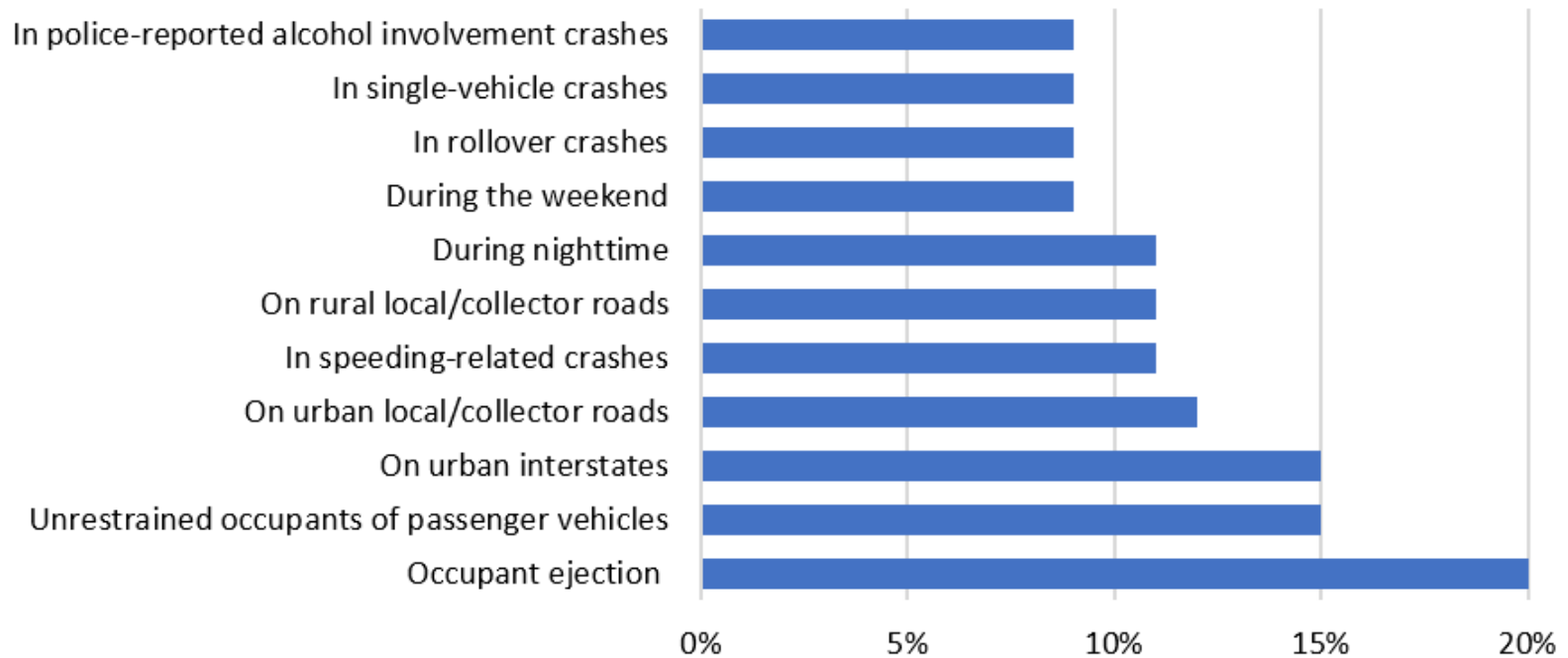
Driving Returns to Pre-Pandemic Levels

US Miles Traveled (Billions)



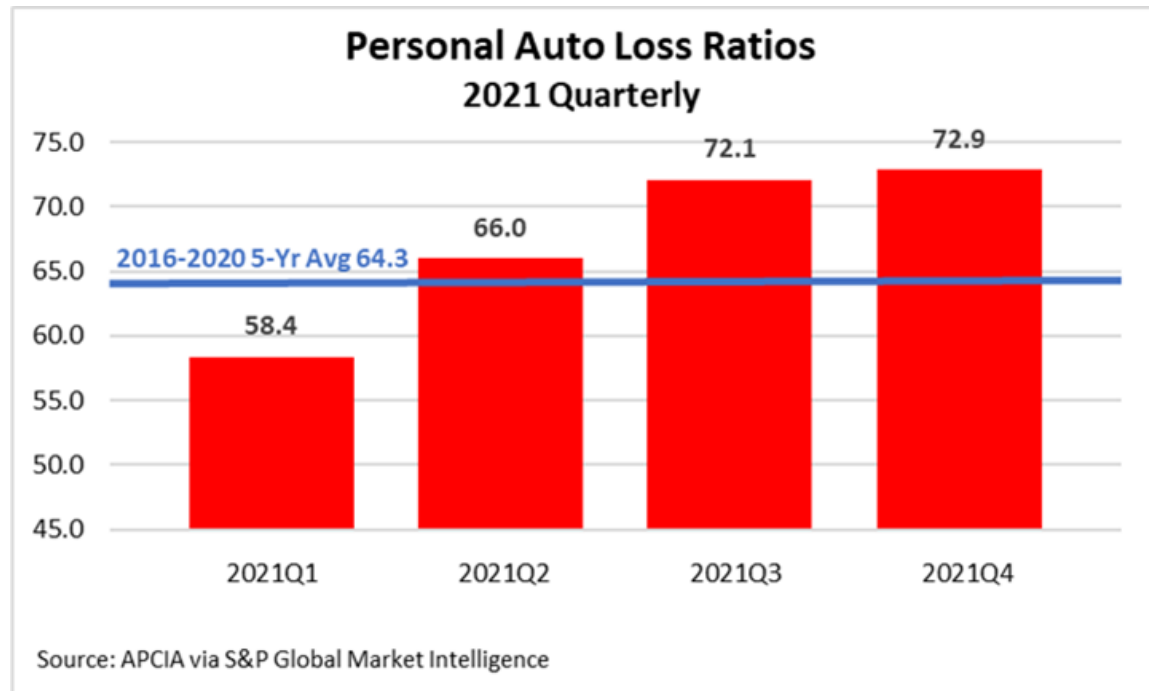


Deteriorating Driving Habits Drive Severity and Increase in Fatalities





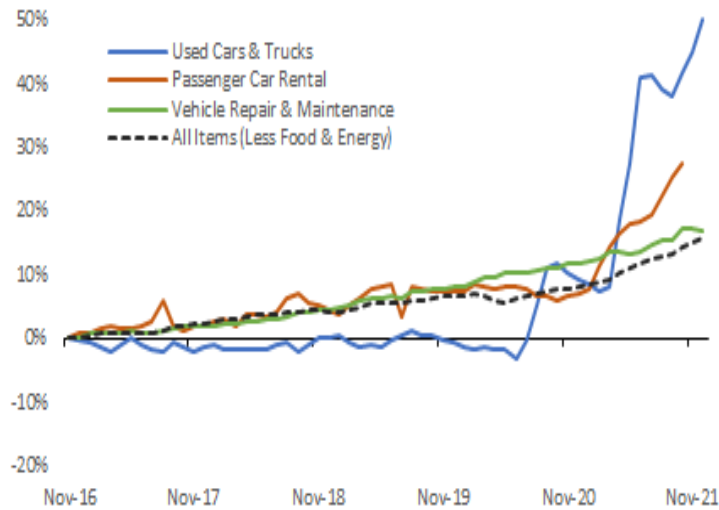
Highest Personal Auto Loss Ratio Since 2010





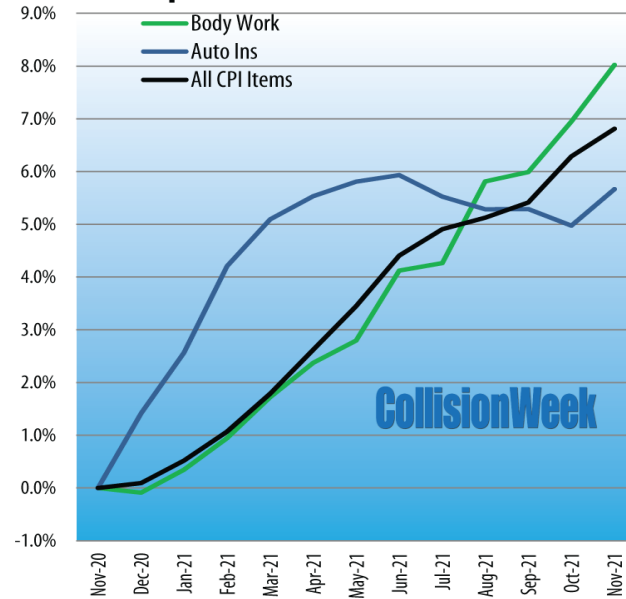
Used Car/Rental/Repair Inflation > CPI

Price Indices



Inflation Comparison

% rise past 12 months to November 2021

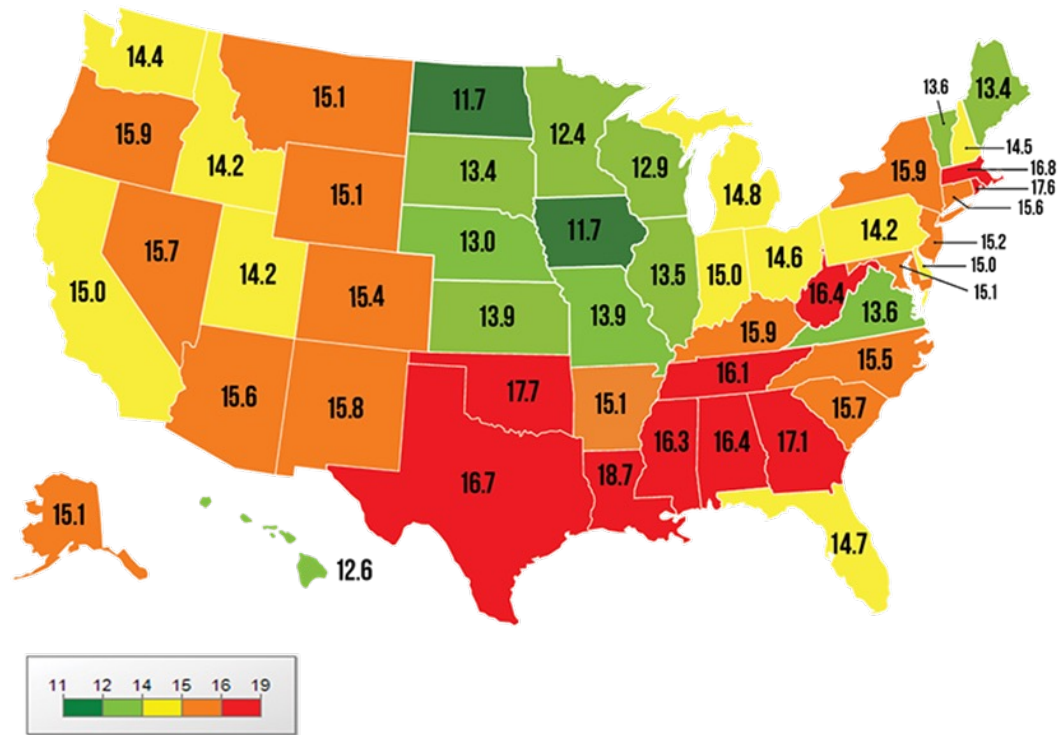


Source: U.S. Bureau of Labor Statistics. Consumer price indices are shown for used cars and trucks, vehicle repair and maintenance, and all items; producer price index is shown for passenger car rental.



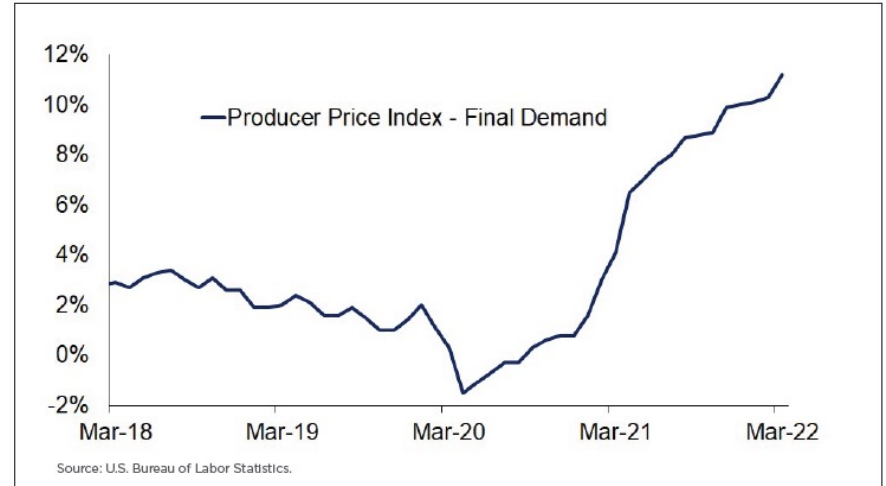
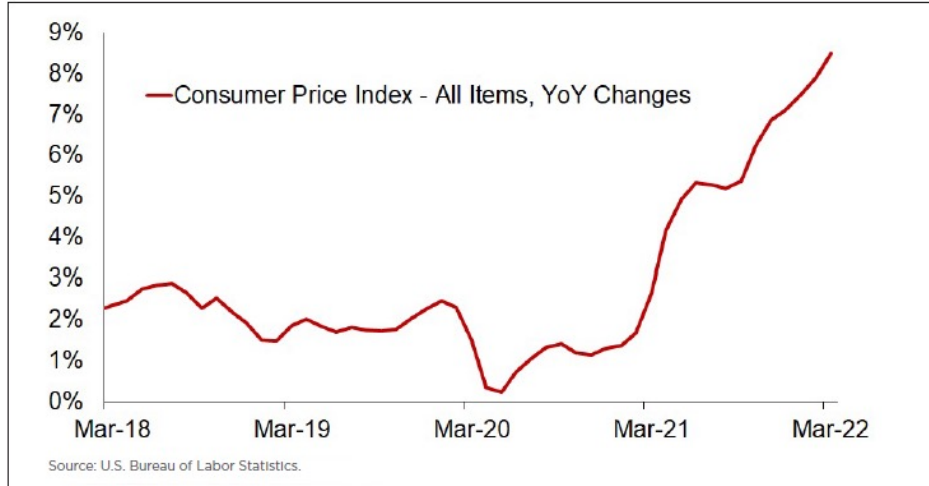
**Length of
Repair
Increasing**

U.S. Length of Rental by State Q3 - 2021





Inflation & Commercial Insurance





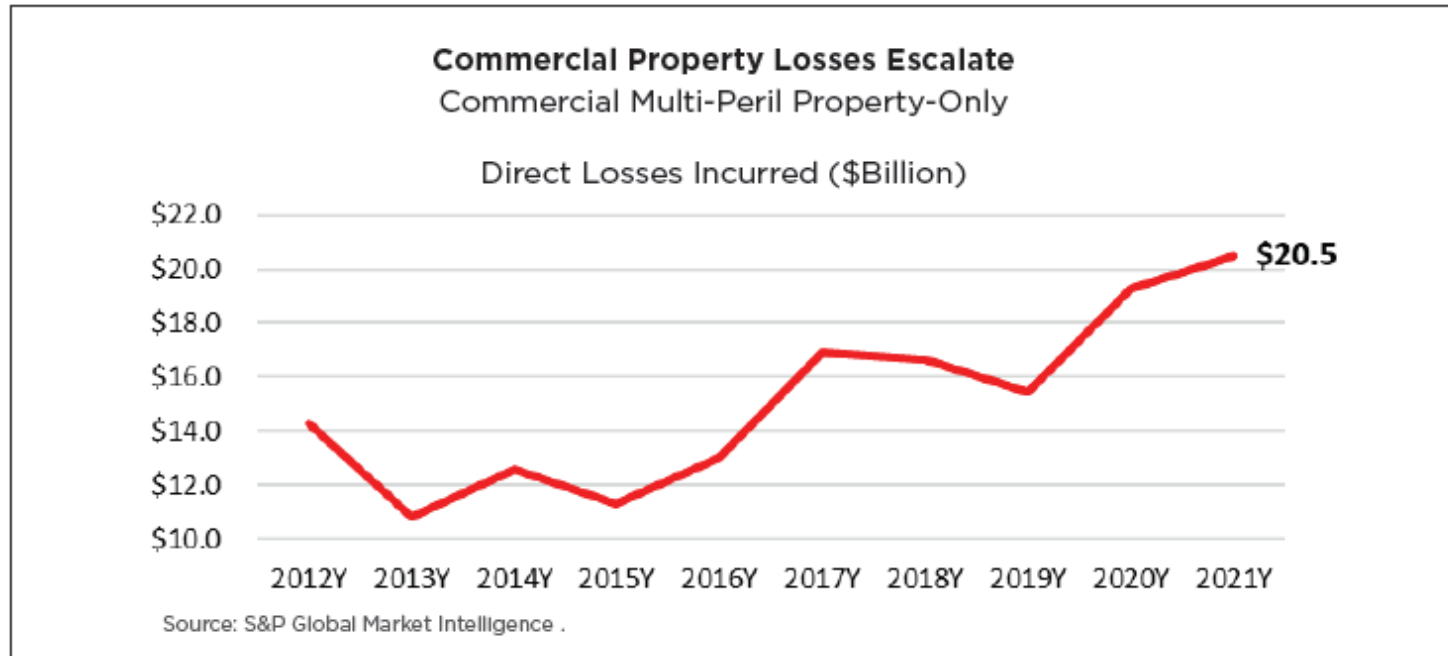
Commercial Insurance Market Impact on Small & Mid-sized Businesses

- In the fourth quarter of 2021, **medium-sized businesses** experienced an average increase in insurance premiums of **10.6 percent**.
- In the fourth quarter of 2021, **small businesses** faced an **average increase of 6.3 percent**.



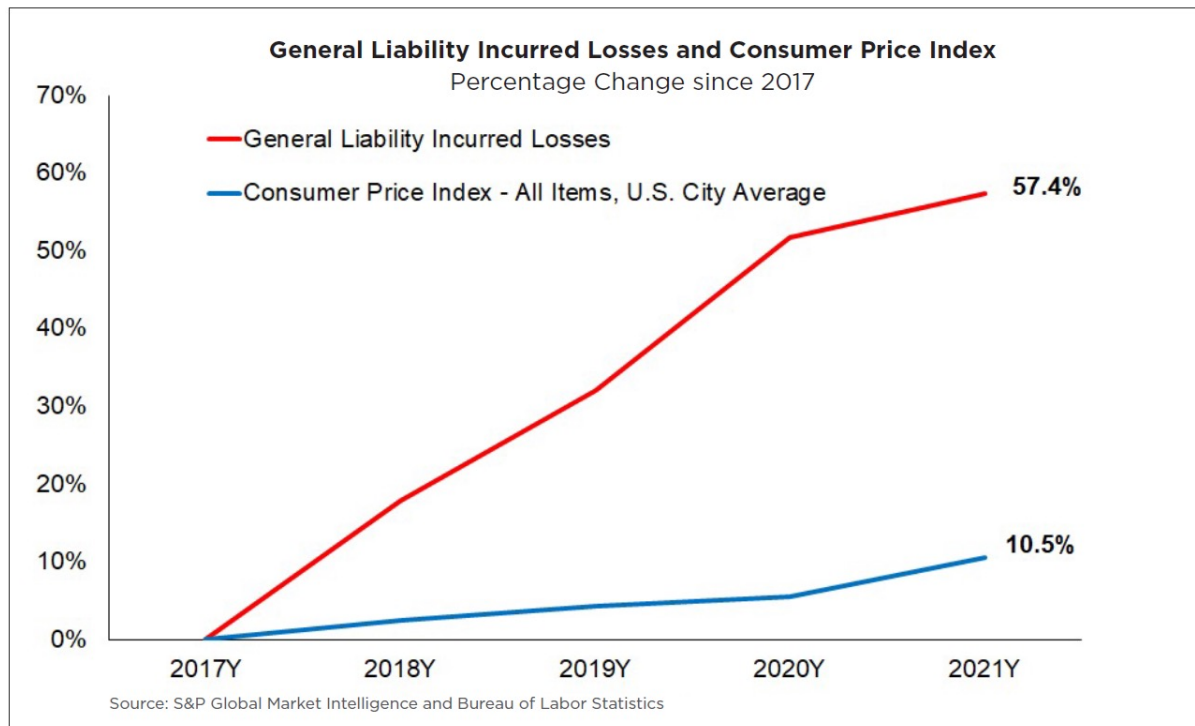
Commercial Insurance Market

Nationwide Commercial Property Losses



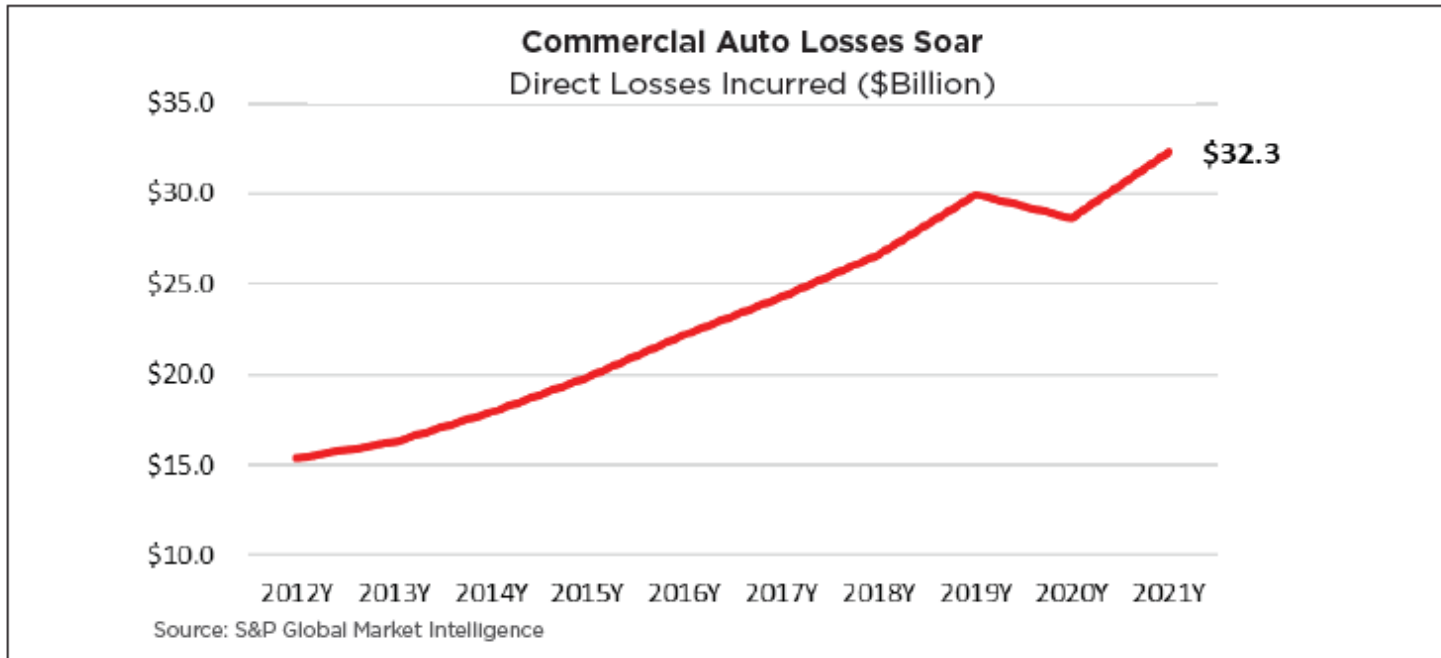


Commercial Insurance Market Nationwide General Liability Losses



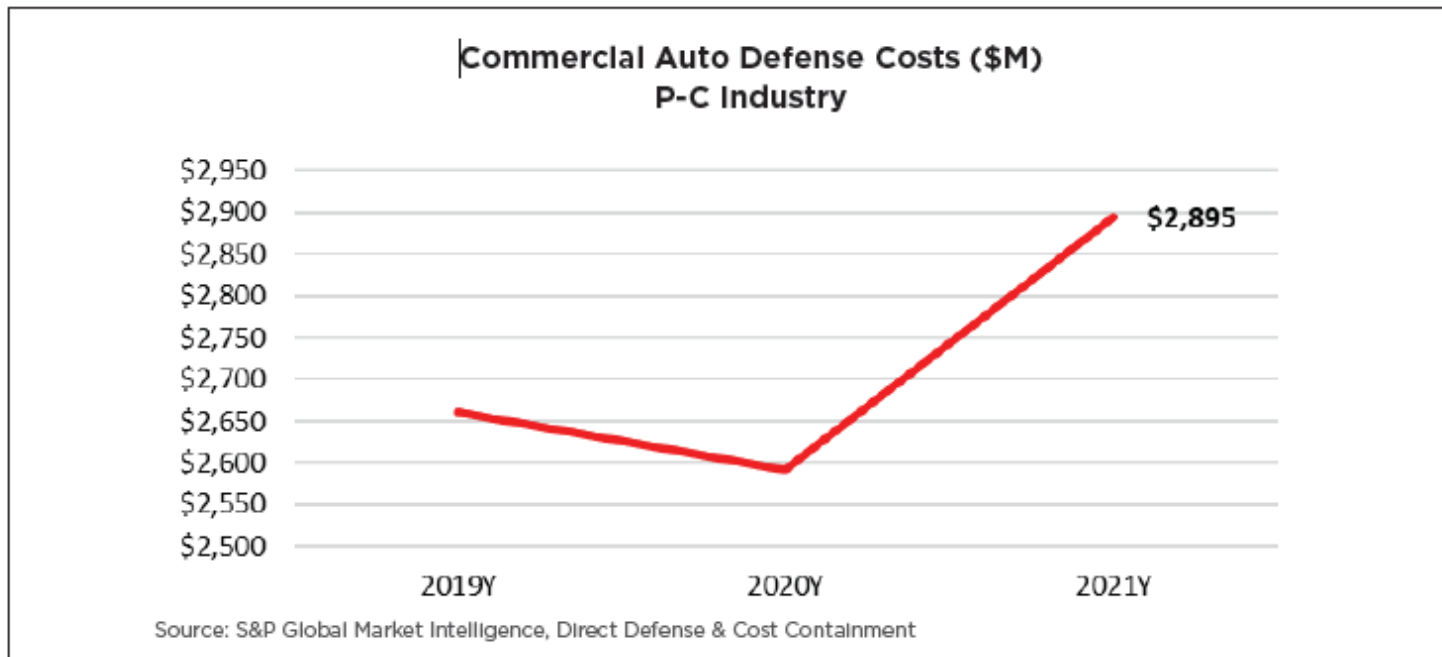


Commercial Insurance Market Nationwide Commercial Auto Losses



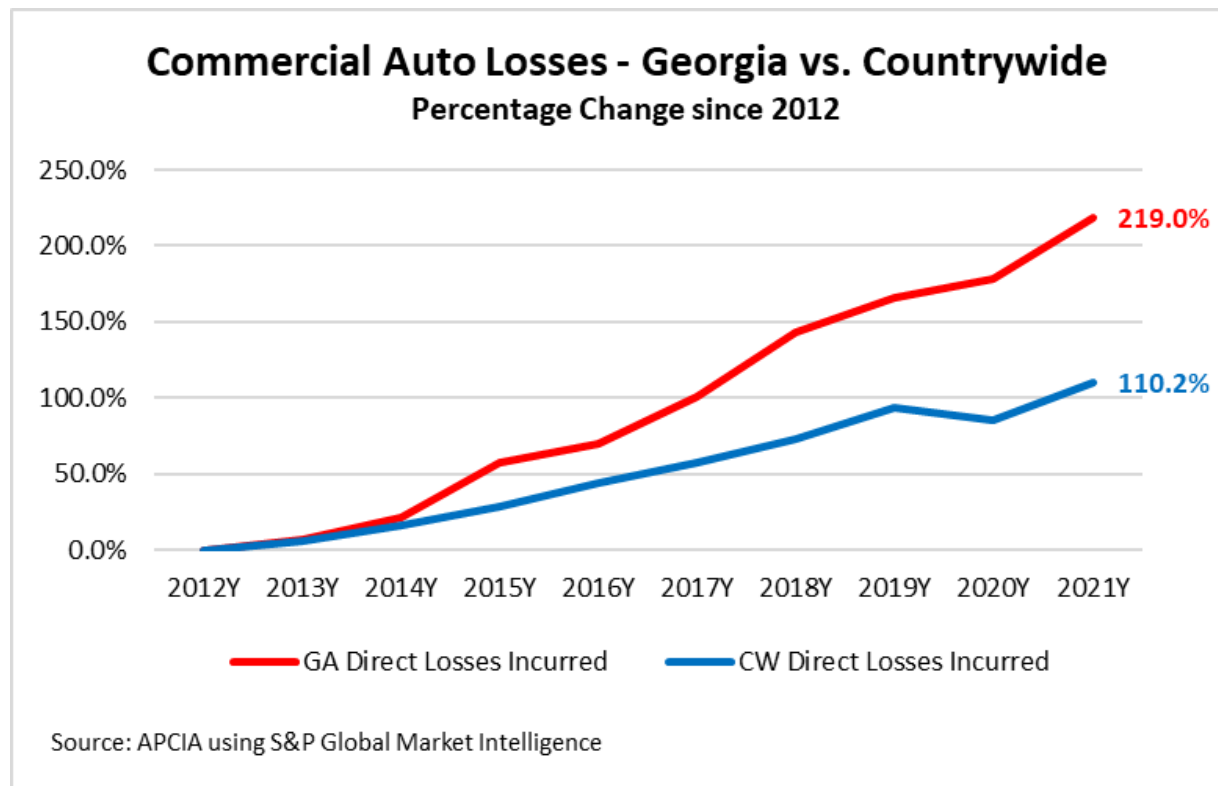


Commercial Insurance Market Nationwide Commercial Auto Losses



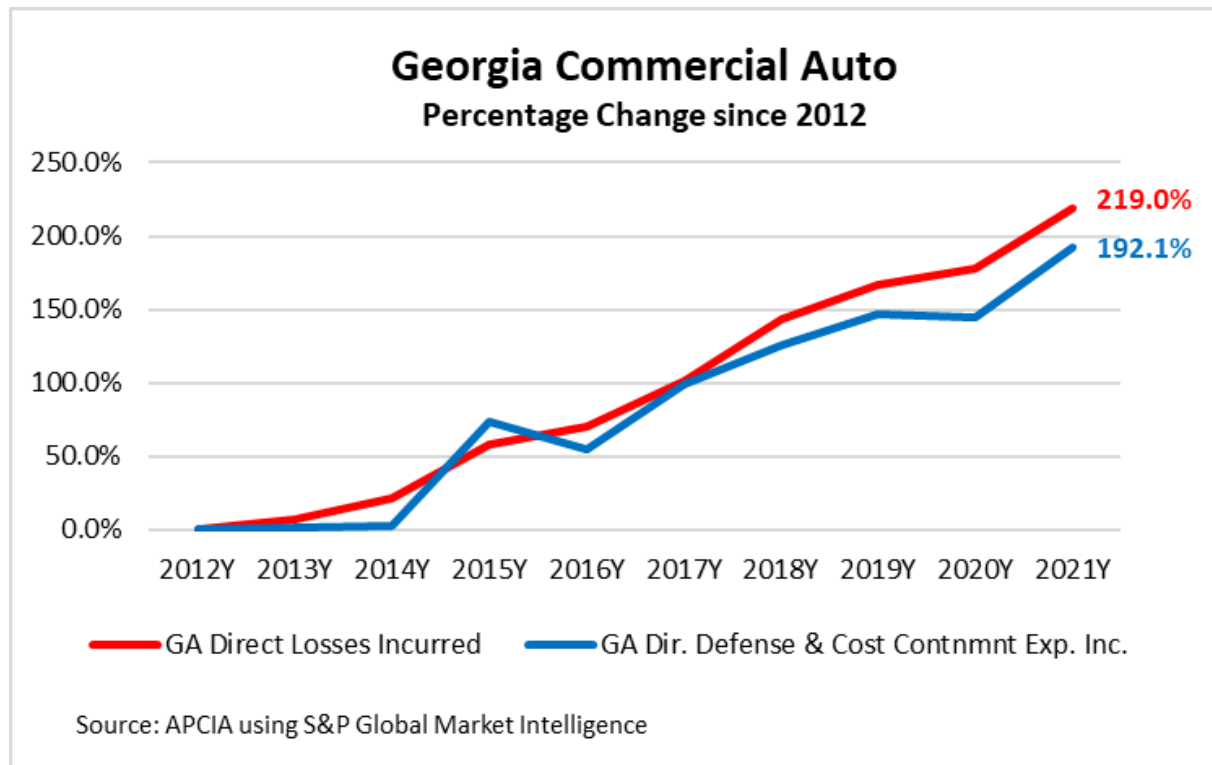


Georgia Commercial Auto Market



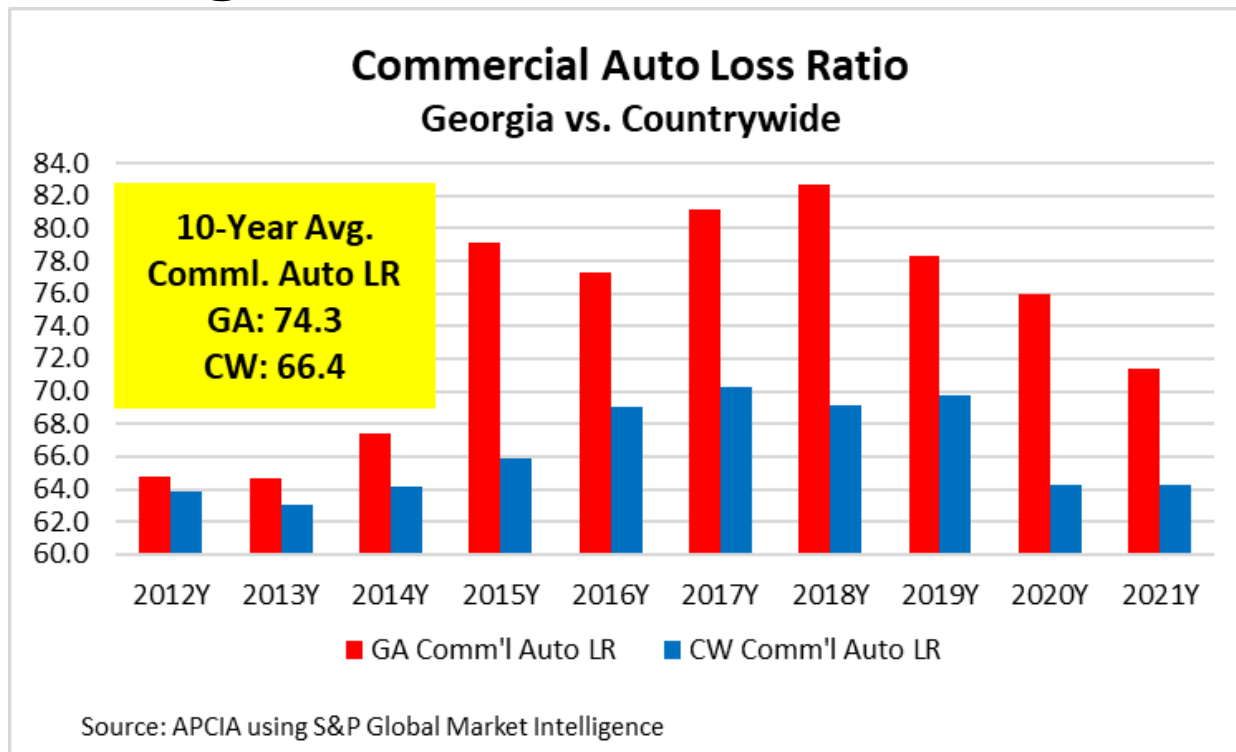


Georgia Commercial Auto Market



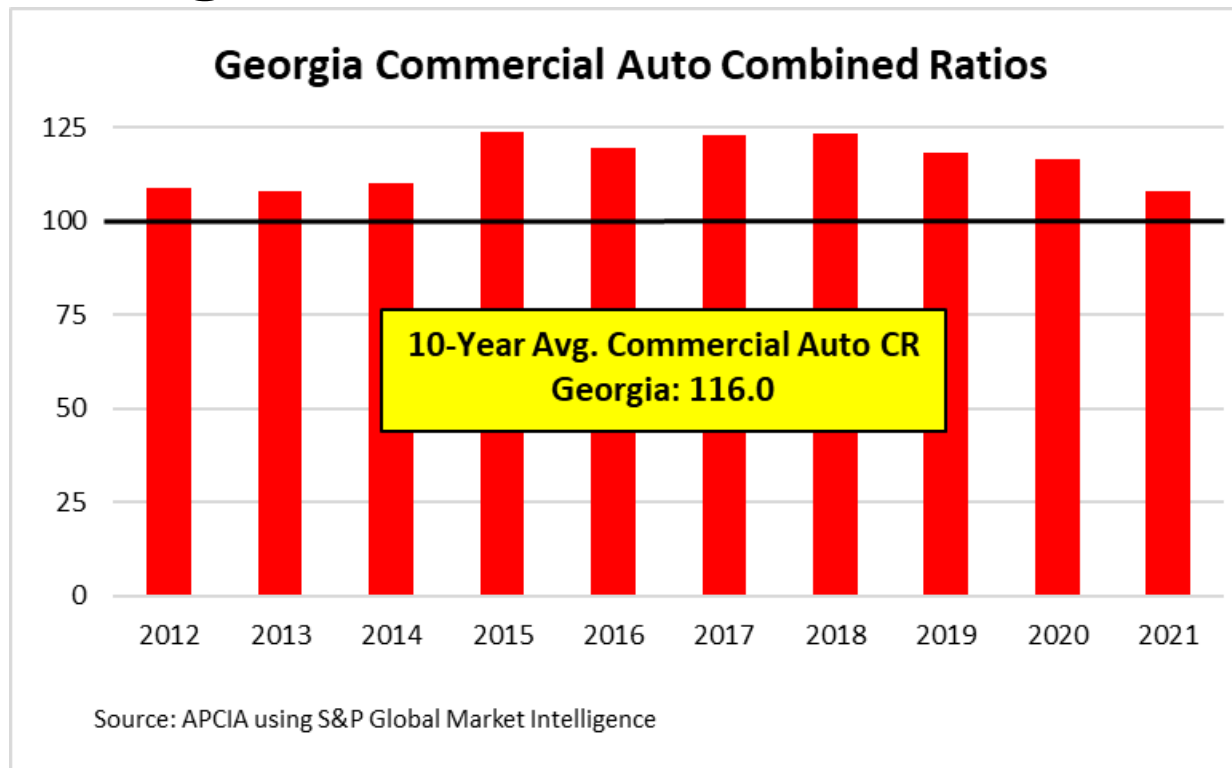


Georgia Commercial Auto Market



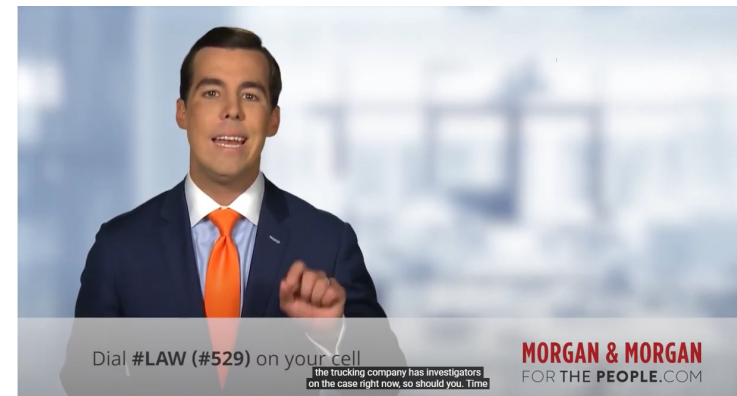


Georgia Commercial Auto Market





Trucking & Insurance: We Are In This Together





APCIA Commissioned Milliman Study

MILLIMAN REPORT

Trends in Attorney Representation: US Commercial Automobile Insurance

Prepared for: American Property Casualty Insurance Association

January 7, 2022

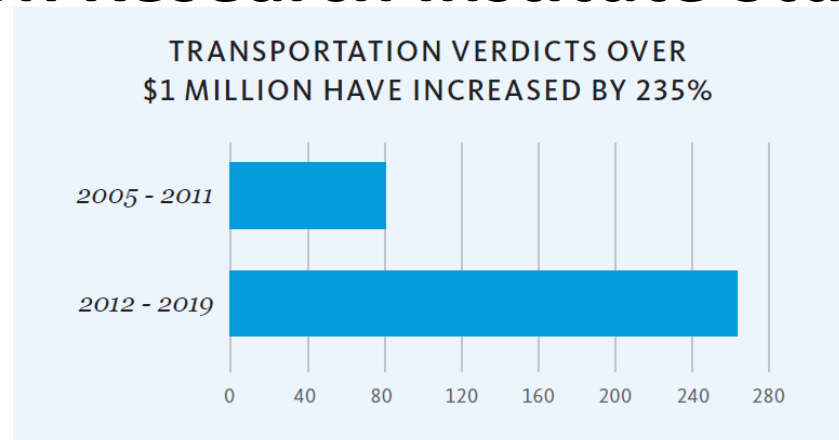
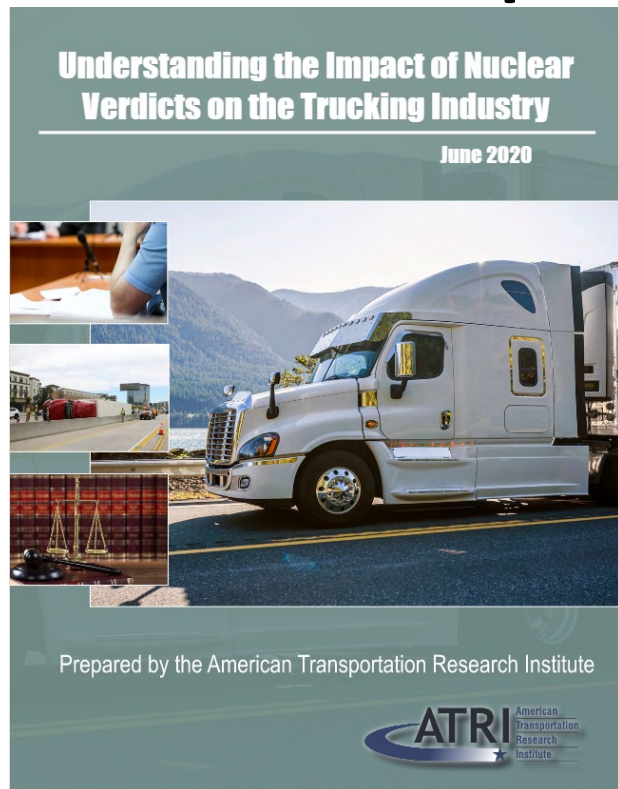
Derek Jones, FCAS, MAAA
Philip S. Borba, PhD, CSPA



- Average cost of claims with a plaintiff attorney was **14.3 times higher** than those without an attorney.
- Average cost to resolve a claim with an attorney **34 times higher** than to resolve a claim without an attorney.
- Average total loss and allocated loss adjustment expenses for claims with an attorney was **15.3 times** higher than claims without an attorney.
- In five years, there was a **50% increase** in claims of more than \$500,000.



American Transportation Research Institute Study



- 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%.**



Median Cost of Fatalities and Harassment

Median Cost of Single-Fatality USA, Disposition Date



Median Cost Gender/Sexual Discrimination & Harassment USA, Disposition Date





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 in Trucking Claims

- According to Fox Business, trucking verdict average sizes grew by 483 percent from 2017 to 2018!



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Nuclear verdicts in trucking cases rising at 'exponential pace'

From 2017 to 2018 alone, average size of verdicts grew by 483%

- Commercial vehicle injury claims contribute to nuclear verdicts; awards exceeding \$10 million, grew from \$300 million in 2011 to nearly \$1 billion in 2018-19.
- \$1 billion personal injury verdict in a trucking case in Florida in 2021. *Dzion v. AJD Business Services Inc. et al.*, 2018-CA-000148 (Nassau Cty Fla. 2021).



Another Look at the Numbers

Social Inflation has shifted the curve toward higher losses: Trucking is ground zero

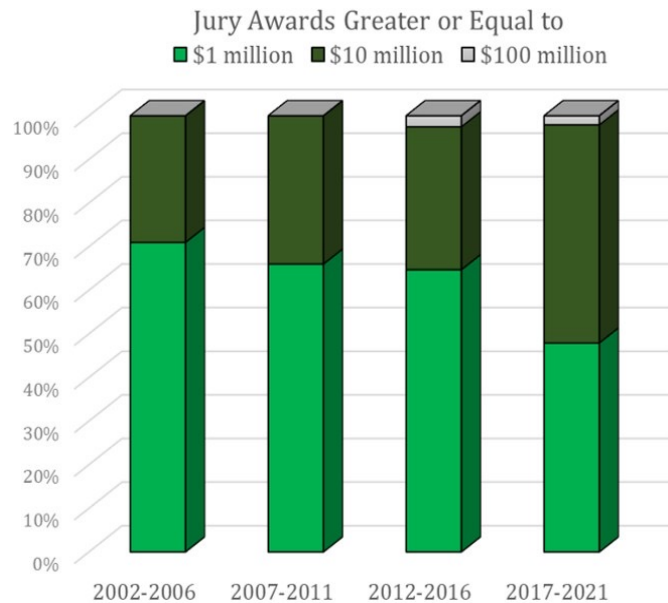


Chart shows commercial trucking- related awards by size.

The frequency of nuclear verdicts is on the rise, and that changes the behavior of all parties.

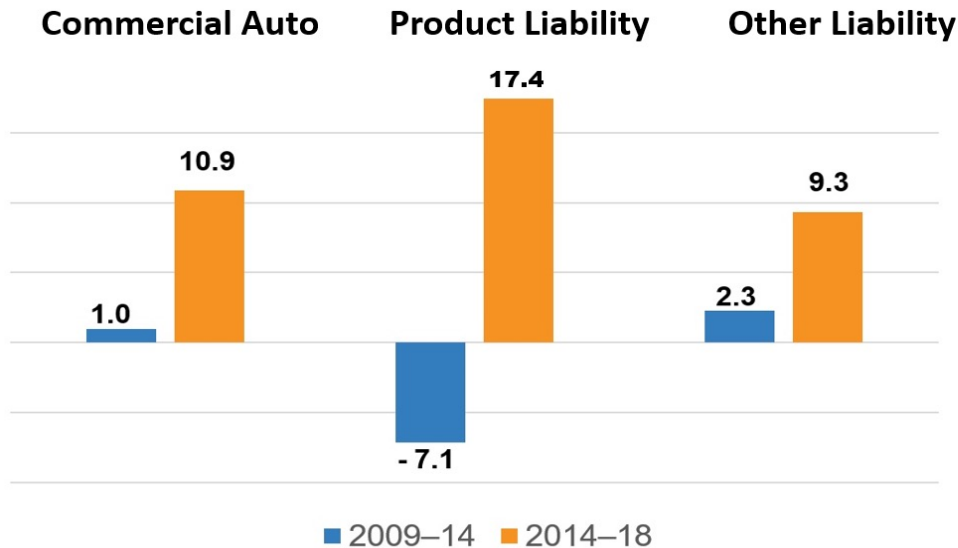
[Carrier Management summary](#) of APCIA report on attorney involvement in commercial auto:

- Up from 25% of all 2015 claims to 30% of all 2019 claims
- Ratio of claims with and without attorney was 7.4x in 2015; 14.3x in 2019!



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](#)



Social Inflation—Drivers

- **Attorney Advertising**—way up in many jurisdictions, increases of 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

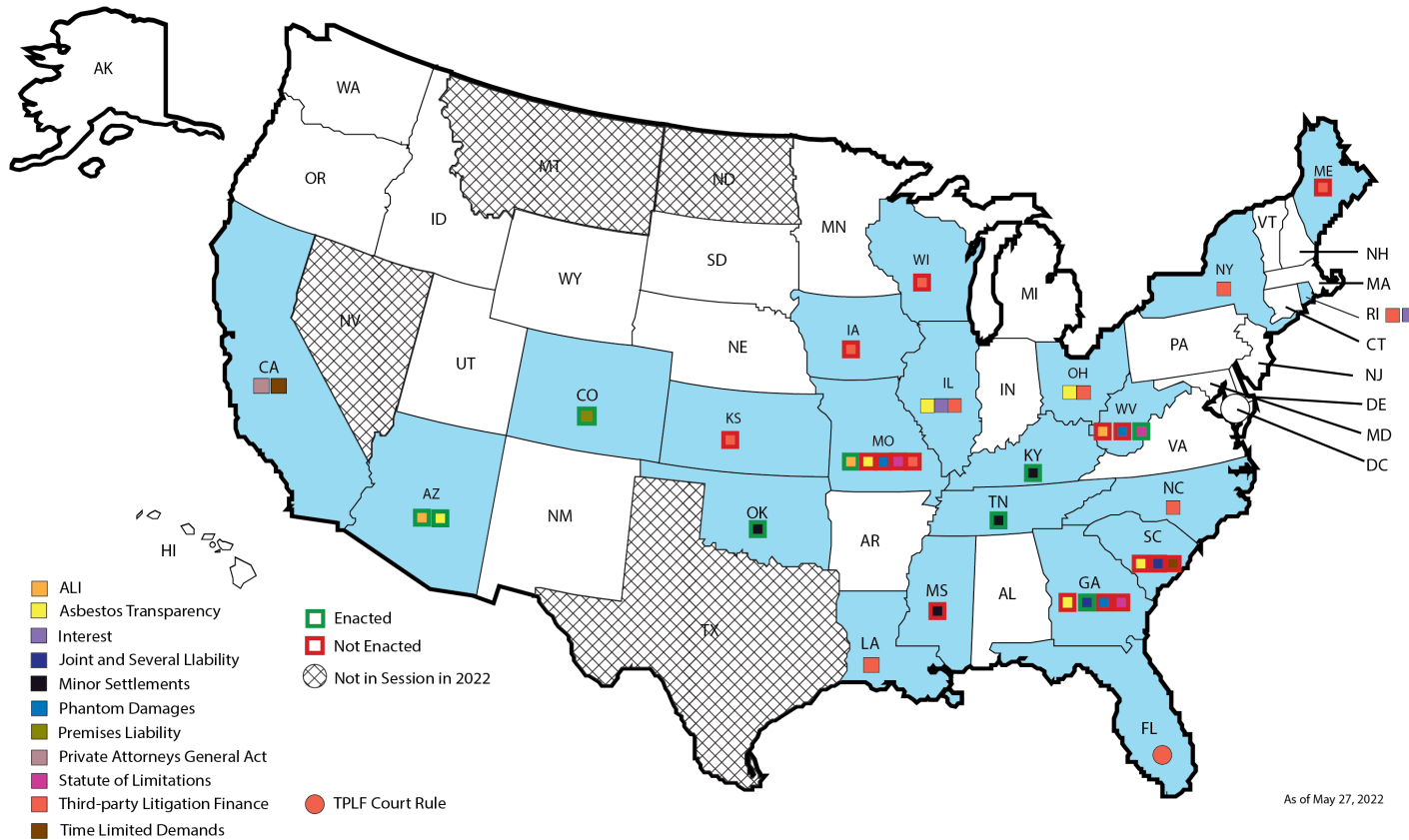


What can we do about it?

- **EDUCATE** -- highlight social inflation, litigation financing, phantom damages and nuclear payouts and their impact on key industries like trucking.
- **BUILD COALITIONS** – work with impacted and at-risk industries so it's about protecting the ability of key industries to do business.
 - Class action, and recent COVID-19 reforms were all bipartisan reforms to address abuses and to protect key sectors (e.g., essential services, municipalities, first responders and medical providers).
- **LEGAL REFORMS:**
 - **Third Party Litigation Funding (TPLF) reform** – Disclose and regulate it. Limit the money.
 - **Limit added claims against employers who assume responsibility.**
 - **Joint & Several Liability Reform**
 - **Phantom Damages** – Limit the abusive practice of inflating medical and other damages
 - **Regulate lawyer advertising** and curb early attorney involvement and overreach
 - **Damage Limits**, including punitive damages and curbs on judgment interest



2022 Lawsuit Abuse Reform Proactive Priorities



As of May 27, 2022



QUESTIONS?

Thank you for having me!