

# Claims Litigation Accomplishments

Claims Committee Meeting  
February 23, 2021



# Litigation Accomplishments

## **May 2014 Claims Litigation Reorganization**

- In partnership with Coordinating Counsel the goal to enhance litigation management through
  - Improving customer service by eliminating unnecessary protracted litigation
  - Responsible and appropriate allocation of resources
  - Development of focused litigation strategies
  - Consistency in claims handling

## **New Organizational Structure**

- Redesign of the Claims Litigation Leadership team to
  - Scale to appropriate spans of control for management team
  - Enhance strategic case handling with manager involvement in each case file
  - Drive timely resolution of policyholder's claim without need for protracted litigation

## Development of File Segmentation

- Specialized handling units were developed to allow consistency in claims handling and the application of overarching strategies
- Files segmented by cause of loss and strategic significance
  - Water, CAT, Large Loss, Specialty, Assignment of Benefits (AOB), Non-Weather Water, Residential Sinkhole, Commercial Sinkhole, Commercial and Liability

## **Creation of Triage Evaluation Unit**

- Designed for early evaluation of all new incoming lawsuits
- Suits are evaluated as follows
  - Strength of coverage position
  - Appropriate handling unit assignment
  - Dedication of appropriate resources
  - Assignment of file strategy
    - Settlement
    - Limited discovery
    - Trial

## What Constitutes a Trial Candidate

- Claims that have been appropriately adjusted according to the policy language
  - Drives consistency in the litigation process
  - Supports the reduction in new suits by Plaintiff Attorneys looking for an easy settlement
    - Increasing number of Plaintiff Attorney abandonments of the suit prior to trial

## Expansion of Mock Trial Evaluations

- Mock Trial evaluation involves the detailed review of individual cases with Claims Litigation Management and Claims Legal Services for determination of trial viability with the application of focused litigation strategies.
- This type of evaluation ensures the appropriate allocation of resources and timely resolution of matters not deemed suitable for trial.
- This process also includes the pre-litigation Claims department to drive consistency in claims handling from first report through resolution.
- This vets the skills of Defense Counsel and effectiveness of witness
- In 2019, technology was leveraged to provide these evaluations via video conferencing which resulted in significant expense savings



## **Impact of Changes**

- Cost containment through early identification of settlement candidates to avoid unnecessary litigation expenses
- Appropriate resource allocation for all litigation matters as well as trial matters
- Consistency in claims handling through defined strategies communicated to Defense Counsel

# Litigation Results

	2016	2017	2018	2019	2020
<b>New Suits</b>	10,012	7,666	13,183	9,632	7,689
<b>Closed Suits</b>	7,063	6,755	8,999	11,701	7,775
<b>Pending Suits (Year end)</b>	9,667	10,650	14,993	12,915	12,801
<b># of Trials (Year Occurred)</b>	24 60% Fav	17 50% Fav	31 74% Fav	42 81% Fav	16 75% Fav
<b>Final Summary Judgement</b> (Court ruled facts did not support a case as a matter of law)	25	45	73	78	91
<b>Court Ordered Dismissal Without Recovery</b>			4	24	13
<b>Abandoned</b> (Voluntary Dismissal/Withdrawal Without Recovery)	510	639	1,177	1,095	1,040

Note: 2018 & 2019 New Suits was greatly impacted by Hurricane Irma

## HO3 Multiperil Litigation Rates

<b>End of Accident Period</b>	<b>HO3 Litigation Rates</b>		
	<u>Statewide</u>	<u>South East</u>	<u>Rest of State</u>
3/31/2012	17.3%	21.0%	2.7%
3/31/2013	19.4%	24.5%	3.0%
3/31/2014	29.0%	35.9%	4.1%
3/31/2015	38.2%	46.0%	6.9%
3/31/2016	52.2%	61.6%	12.4%
3/31/2017	47.9%	56.7%	16.3%
3/31/2018	35.7%	42.1%	11.3%
3/31/2019	29.8%	36.9%	12.2%
3/31/2020	21.4%	25.8%	15.1%

The continued reduction in water litigation rate in the South East from 2016 to 2020 has led to water rate decreases in Dade and Broward.

## Managed Repair Litigation Impact

Water Mitigation Services		AOB Litigation Rate*		Total Litigation Rate*	
Accident Year	% Accepted	Accepted	Not Accepted	Accepted	Not Accepted
2019	28.4%	2.1%	10.1%	9.6%	25.9%
2020	29.2%	0.5%	1.1%	3.1%	5.9%

\* undeveloped as of 9-30-2020

Permanent Repair		AOB Litigation Rate*		Total Litigation Rate*	
Accident Year	% Accepted	Accepted	Not Accepted	Accepted	Not Accepted
2019	20.1%	2.9%	11.3%	8.6%	29.7%
2020	12.4%	0.4%	1.2%	2.0%	5.9%

\* undeveloped as of 9-30-2020

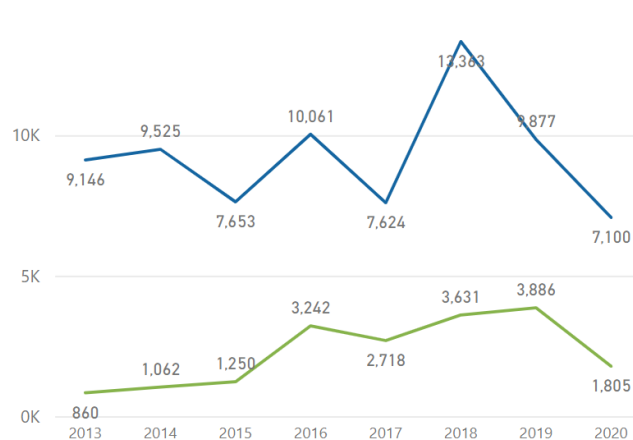
Early results of the Managed Repair Program show strong signs of decreasing the litigation rate

As of 9-30-2020, there is a clear indication that those who enter the program are, at this point, less likely to litigate

# Citizens Lawsuits vs All Other Carriers (Legal Service of Process Data)

Citizens Only Litigation

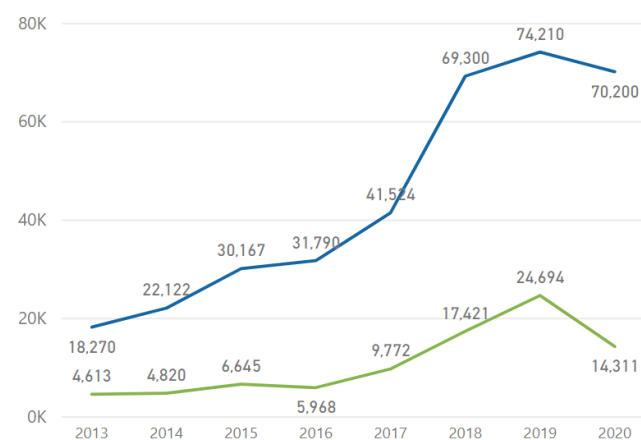
● Citizens AOB Lawsuits ● Citizens Lawsuits



Year	Citizens Lawsuits	Citizens AOB Lawsuits	Citizens AOB % vs Total
2013	9,146	860	33.4%
2014	9,525	1,062	30.1%
2015	7,653	1,250	20.2%
2016	10,061	3,242	24.0%
2017	7,624	2,718	15.5%
2018	13,363	3,631	16.2%
2019	9,877	3,886	11.7%
2020	7,100	1,805	9.2%
<b>Total</b>	<b>74,349</b>	<b>18,454</b>	<b>17.2%</b>

All Other Carriers Litigation

● Total Lawsuits All Other ● Total AOB Lawsuits All Other



Year	All Other Carriers	All Other Carriers AOB	AOB %
2013	18,270	4,613	20.0%
2014	22,122	4,820	18.6%
2015	30,167	6,645	20.9%
2016	31,790	5,968	22.0%
2017	41,524	9,772	25.4%
2018	69,300	17,421	25.5%
2019	74,210	24,694	34.0%
2020	70,200	14,311	20.8%
<b>Total</b>	<b>357,583</b>	<b>88,244</b>	<b>24.7%</b>

County  
All

County Groups  
All

# Carrier Litigation Experience 2013-2020

Year	Citizens Lawsuits	Citizens AOB Lawsuits	Citizens AOB %	Lawsuits All Others	AOB All Others	All Other AOB %	Total Lawsuits	Total AOB	Total AOB %
2013	9,146	860	9.4%	18,270	4,613	25.2%	27,416	5,473	20.0%
2014	9,525	1,062	11.1%	22,122	4,820	21.8%	31,647	5,882	18.6%
2015	7,653	1,250	16.3%	30,167	6,645	22.0%	37,820	7,895	20.9%
2016	10,061	3,242	32.2%	31,790	5,968	18.8%	41,851	9,210	22.0%
2017	7,624	2,718	35.7%	41,524	9,772	23.5%	49,148	12,490	25.4%
2018	13,363	3,631	27.2%	69,300	17,421	25.1%	82,663	21,052	25.5%
2019	9,877	3,886	39.3%	74,210	24,694	33.3%	84,087	28,580	34.0%
2020	7,853	2,007	25.6%	77,154	15,676	20.3%	85,007	17,683	20.8%
<b>Total</b>	<b>75,102</b>	<b>18,656</b>	<b>24.8%</b>	<b>364,537</b>	<b>89,609</b>	<b>24.6%</b>	<b>439,639</b>	<b>108,265</b>	<b>24.6%</b>

## 2019 vs 2020 Notes:

1. Citizens AOB Litigation decreased by 48% (3,886 to 2,007)
2. Citizens Overall Litigation decreased by 20% (9,877 to 7,853)
3. All Other Carriers AOB Litigation decreased by 37% (24,694 to 15,676)
4. All Other Carriers Overall Litigation increased by less than 1% (84,087 to 85,007)

# 2019 Top 10 Carriers by Increase in Lawsuits 2016-2019

2019 Top 10 Carriers by Increase in Lawsuits 2016 to 2019										
Company	2019 Direct Premiums Written	2019 Policyholder Surplus	2019 Underwriting Gain/Loss	2019 Net Income/Loss	2019 Net Combined Ratio	Lawsuits 2016	Lawsuits 2017	Lawsuits 2018	Lawsuits 2019	% Increase in Suits 2016- 2019
Southern Oak Insurance Co.	\$ 104,972	\$ 46,419	(\$14,374)	(\$13,347)	121.2	275	362	490	684	148.7%
Tower Hill Select Insurance Co	\$ 86,600	\$ 21,118	(\$4,746)	(\$2,653)	123.4	289	364	493	701	142.6%
First Floridian Auto & Home	\$ 46,482	\$ 182,317	(\$6,449)	\$1,305	115.8	171	199	319	411	140.4%
Gulfstream P&C Insurance Co.	\$ 149,446	\$ 25,279	(\$9,300)	(\$7,429)	125.5	158	175	248	377	138.6%
Auto Club Insurance Co. of FL	\$ 233,024	\$ 211,579	\$12,498	\$18,657	94.0	171	191	293	401	134.5%
American Traditions Ins Co.	\$ 129,057	\$ 30,355	(\$1,321)	\$598	95.5	100	122	170	234	134.0%
Univ Ins Co. of North America	\$ 123,390	\$ 31,394	(\$7,196)	(\$4,120)	118.1	170	188	282	390	129.4%
Capitol Preferred Insurance Co.	\$ 210,760	\$ 42,712	(\$27,902)	(\$25,738)	138.3	149	164	227	337	126.2%
Prepared Insurance Co.	\$ 65,139	\$ 20,787	(\$13,508)	(\$12,424)	152.5	242	274	382	545	125.2%
St. Johns Insurance Co.	\$ 371,488	\$ 46,751	(\$22,111)	(\$22,111)	178.7	372	421	567	836	124.7%
Citizens Property Insurance Co.	\$ 876,560	\$ 6,317,933	(\$97,059)	\$86,329	114.5	10,012	7,666	13,183	9,632	-3.8%

Source: Guy Fraker:  
Insurance Market: Spiraling Toward Collapse



# Claims Legal Accomplishments



## Claims Legal Defined

- Primary role is to provide legal support and guidance to the Claims operation
  - Team consists of seasoned attorneys with experience in insurance law and litigation
  - Provides support to Non-Litigated Claims teams, Special Investigations Unit and Litigated Claims teams
  - Provides claims related legal support to Product Development and Communications, Legislative & External Affairs

## **Claims Legal Expansion**

- 2014 expansion of Claims Legal attorneys based on an external consultation from three attorneys to 12 attorneys
- 2017 additional expansion from 12 to 16 attorneys following a recommendation from the Office of Internal Audit (OIA) to evaluate staffing needs based on the volume of litigation

# Claims Legal Metrics

YEAR	FRONT-END CLAIMS	CLAIMS LITIGATION	TOTAL
2013	Not Recorded	1,739	1,739
2014	Not Recorded	5,948	5,948
2015	1,702	13,843	15,545
2016	3,674	13,879	17,553
2017	2,962	12,998	15,960
2018	3,338	15,043	18,381
2019	3,324	14,765	18,089
2020	2,676	19,460	22,136

Legal service referrals handled by Claims Legal

# Appeals

- Takes the lead in determining whether to pursue or defend an appeal and manages the process to conclusion
  - Key strategic appellate results
    - Immunity
    - Home Venue
    - Claim Handling Evidence
    - Assignment of Benefits
    - Jurisdiction
    - Late Notice
    - Appraisal
    - Earth Movement
    - Plaintiffs Expert Opinion

# **Litigation Avoidance / Termination and Strategies**

- Design, drafting, development and implementation of key strategies and initiatives designed to resolve claims without litigation or end litigation in the early stages
  - Managed Repair Program
  - Appraisal
  - Assignment of Benefits
  - No Peril Created Opening
  - Training and Exemplar development for Defense Counsel
  - Hurricane Irma Settlement Agreements

# Vendor Operations Accomplishments

## **2014 Creation of Claims Legal Services Program**

- As a result of an OIA audit, a dedicated position was created in the Vendor Operations team
  - Responsible for the oversight and monitoring of contracted Defense Counsel
- Objectives of the program
  - Create a means to track Defense Counsel cross-file aggregate hours billed
  - Create a scorecard to identify and analyze vendor performance
  - Create a formal credentialing process to track and monitor resource performance

# Credentialing of Defense Counsel

- Designed to track each firm and their respective resources compliance with stated contractual credentialing deliverables
  - Proof of active insurance policy that complies with minimum coverage requirements
  - Execution and submission of a form that attests to adherence with Citizens' ethics and confidentiality requirements for each individual
  - Execution and submission of a form that acknowledges no conflict of interest exists both for the firm and each individual
  - Execution and submission of a form acknowledging and accepting the rules laid forth in the Guidelines for Claims & Litigation Legal Services for each individual
  - Proof of active membership in good standing with the Florida Bar for each attorney



## Performance Monitoring

- Employs a multi-pronged, collaborative approach to vendor performance
- Monitoring of performance related criteria occur at both a summary and detailed level
- Resulting data is then used to provide feedback to both Defense Counsel and internal stakeholders at Citizens
- Leverages a proactive approach in performance monitoring
  - Identifying early trends and working collaboratively with internal resources to take appropriate corrective action with Defense Counsel
  - Five law firms and 10 specific attorneys have been permanently removed from the program

## Performance Scorecard

- Monthly “Program” level scorecard encompassing all firm performance over the reporting month and an individual “Entity” level scorecard provided to each law firm
  - Contains individual firm's data with performance over a rolling 12-month period
  - Contains over 60 data points and averages 40 pages
  - Four primary components
    - Credentialing – shows status of entity and designee level credentialing items
    - File Metrics – shows number of approved attorneys, capacity, new assignments, pending case numbers, number of closed files, cycle time, etc.
    - Audit – includes performance scores based on billing and compliance with file handling expectations captured through various audits
    - Billing Compliance – shows overview of monthly spend and invoice reductions

## Incident Reports

- Documents past performance issues to provide the ability to identify specific performance concerns and to inform the law firm which allows for corrective action to be taken
  - Allows management in Claims Litigation and Claims Legal to document singular incident-based performance issues involving specific firms and attorneys
  - Incidents are cataloged in a master tracker by type and identify performance trends. Over 1,300 specific incidents of performance management concerns have been tracked
  - Each incident is reviewed monthly at a meeting with management from Claims Litigation and Claims Legal to determine any applicable actions to be taken

# Quality Assurance Reviews

- Citizens conducts three different file/performance reviews
  - Claims Audit – performed by the Litigation Specialist on *each* closed matter. Involves 10 questions regarding Defense Counsel’s adherence to various requirements in the Guidelines for Claims and Litigation Legal Services. Each question allows for a 1-5 response with a score of 3 representing “meets expectations”. To date, Citizens has completed tens of thousands of Claims Audits.
  - QA Audit – performed by Citizens’ Claims QA Team on a *random sampling* of closed files each month. This audit differs from the Claims Audit in that it is more objective based and captures compliance with tangible deliverables such as timely filing responsive pleading, submitting invoices on a timely basis, receiving proper approval prior to filing motions, etc. To date, Citizens has completed thousands of QA Audits.
  - Trial/Mock Trial Audit – performed by in-house Claims Legal attorneys. This data is reported separately in a stand-alone report and provides detailed peer level review of attorney performance at both trial and mock trial. This audit allows Citizens to document historical trial and mock trial performance and ensure the utilization of effective and experienced counsel at trial. To date, Citizens has completed over 800 Mock Trial Audits and 50 Trial Audits.

## Assignments to Defense Counsel

- A real-time Assignment Tracker was created and operates as an electronic, shared document that is continually updated and allows Citizens to make immediate changes to firm eligibility
- Based on performance management data, the Assignment Tracker allows for assignments to be made using a variety of criteria including firm location, firm size, firm capacity relative to pending assignments, and firm approved sub-party practice area (i.e., AOB, Trial, Settlement, Commercial, etc.)
- The Assignment Tracker serves to
  - Limit overloading cases to a particular firm as each firm is assigned a file capacity target which places a cap on the number of open files a firm can handle at any given time
  - Ensure cases are assigned to those firms that are in good standing and approved for the specific assignment type

## **Firm Interview Process**

- Each law firm receives an in-person interview with Citizens management team
  - Establishes relationship with the law firm
  - Determines firm size, individual attorney experience, trial experience and relevant history in the Property and Casualty defense area
  - All information is incorporated into the assignment process which allows Citizens to make assignments to firms in areas that best fit the needs of the particular lawsuit

## Aggregate Hour Bill Tracking

- Citizens partnered with Acuity (Matter Management Vendor) to create a report titled “Hours Billed Report” that allows Citizens to identify each attorney that has billed over eight hours total, across multiple files, in a single calendar day. This report provided the ability to create thresholds for review where inquiry letters were sent to the firms for clarification/justification as needed.
- Citizens partnered with Acuity to create a rule in the system that would prohibit law firms from submitting billing if the daily cross file billing aggregate exceeded a certain threshold (16 hours). This provided the ability for Citizens to move to a proactive approach that requires the law firms to provide justification and receive approval prior to the time being submitted to Citizens.
- Citizens partnered with Acuity to develop a daily data feed which provided enhanced reporting capabilities and allowed for the creation of reports that were otherwise prohibited due to data size. This data allowed for the creation of a comprehensive dashboard that tracks all attorney time billed for all periods (daily, monthly, annual) and is updated daily.

## **Reimbursement Process**

- Claims Vendor Relationship Management assumed responsibility for the tracking of reimbursements made to Citizens due to incorrect billing submitted by Defense Counsel. As a result, a detailed process of receiving, processing, and tracking reimbursements was created which allowed Citizens to accommodate payments paid over an extended period through repayment plans with the law firms.