

**ACTION ITEM**

- New Contract
- Contract Amendment
- Other Committee Minutes

**CONSENT ITEM**

- Contract Amendment
- Existing Contract Extension
- Existing Contract Additional Spend
- Previous Board Approval \_\_\_\_\_
- Other \_\_\_\_\_

**Action Items:** Items requiring detailed explanation to the Board. When a requested action item is a day-to-day operational item or unanimously passed through committee it may be moved forward to the board on the Consent Index.

- Move forward as Consent:** This Action item is a day-to-day operational item, unanimously passed through committee or qualifies to be moved forward on the Consent Index.

**Consent Items:** Items not requiring detailed explanation to the Board of Governors. Consent items are contract extensions, amendments or additional spending authorities for items previously approved by the Board.

<b>Item Description</b>	<b>Claims Committee Meeting Minutes</b> February 23, 2021
<b>Purpose/Scope</b>	Review of the February 23, 2021 Claims Committee Meeting Minutes to provide opportunity for corrections and historical accuracy.
<b>Contract ID</b>	N/A
<b>Budgeted Item</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – N/A
<b>Procurement Method</b>	N/A
<b>Contract Amount</b>	N/A
<b>Contract Terms</b>	N/A
<b>Committee Recommendation</b>	Staff recommends the review and approval of the February 23, 2021 Claims Committee Meeting minutes.
<b>Contacts</b>	Jay Adams, Chief Claims Officer

## CITIZENS PROPERTY INSURANCE CORPORATION

### MINUTES OF THE CLAIMS COMMITTEE MEETING Tuesday, February 23, 2021

The Claims Committee of Citizens Property Insurance Corporation (Citizens) convened on Tuesday, February 23, 2021 at 1:00 p.m. Eastern.

#### **The following members of the Claims Committee were present:**

Will Kastroll, Chairman  
Reynolds Henderson<sup>1</sup>  
Scott Thomas  
Jon Palmquist  
Jay Adams

#### **1. Approval of Prior Meeting's Minutes (December 8, 2020)**

**Chairman Kastroll:** We have a pretty full line up today. We have four speakers who requested to speak as well. And the first thing that I would like to do is get the easy, hopefully the easy task behind us and approve last meeting's Minutes.

**A motion was made by Chairman Kastroll and seconded by Mr. Palmquist to approve the December 8, 2020 minutes. All were in favor. Motion carried.**

**Chairman Kastroll:** Okay, we are going to go ahead, and we have an insured who has requested to speak, and I thought out of the dignity of not having them have to listen to the whole presentation of the Claims Committee, that we would give them first crack at our Claims Committee to go ahead and talk, and then they won't have to wait an hour on the line. And so, with that, I think Shari or Barbara you have them set up to go ahead and talk for three minutes.

**Barbara Walker:** Thank you, Chairman. For the record we received a speaker request from a policyholder. However, she emailed me this morning to say that she did not think she would be able to join to speak. And we have not seen her phone number appear. So, we are assuming that she has not been able to go ahead and join us.

**Chairman Kastroll:** Thank you, Barbara. If during the call she does call in, at a break that is appropriate, please go ahead and let us know and then we will patch her right in so she doesn't have to wait for the whole meeting to go ahead and speak.

**Barbara Walker:** Yes, sir.

**Chairman Kastroll:** Thanks, Barbara. Okay, we have three other folks that are going to speak under new business at the end of the meeting, but I want to go ahead turn over the meeting to Jay and have him give his report.

#### **2. Strategic Update**

**Jay Adams:** Good afternoon, Chairman Kastroll and Committee members. I would like to welcome Governor Scott Thomas and Reynolds Henderson to the Claims Committee and thank you for your participation. I apologize for the confusion around my Strategic Update

<sup>1</sup>Joined following roll was called.

with respect to the content of the presentation. We decided that we will be presenting the E&Y presentation before the full Board of Governors at the March 3, 2021 meeting, and placing my focus today around the Litigation Accomplishments.

Before I move into the presentation, I wanted to advise this Committee that we put our Litigation Matter Management Solicitation on hold back in December at the request of the Board, as they wanted to see the final E&Y report to make sure that all recommendations were included in our solicitation. Citizens staff, including our IT partners, have reviewed the software recommendations by E&Y and have made sure to include all recommendations into our new solicitation that is all ready to be released. I will be asking for your support when I bring this item back to the March Board meeting, as it's mission critical that we release the solicitation as soon as possible. We are currently operating on a software platform that is out of date and no longer supported. Citizens was given the option by the current vendor to upgrade to their latest platform that contains many of the upgrades we are looking for at a cost of around \$300,000, with a 10-month implementation schedule. Citizens decided to that instead of completing this update, that we would issue a solicitation to procure this software to make sure that we are getting the latest and greatest available. In order for us to be able to implement many of the E&Y recommendations, we need the new software that this solicitation will procure. I may be bringing a future action item to this committee concerning the current Litigation Matter Management system in order to request an extension of the contract due to the delays that we just discussed. Regardless of what system is selected, there will be a significant conversion of the data into the new system that will likely take up to 10 months, which may require us so extend the current contract.

The Litigation Accomplishments were sent out to all Board members back in January for review prior to the E&Y presentation. My focus today is not to cover this presentation in-depth due to our time constraints, but to focus on the more important aspects of the improvements that have been made in the overall litigation team since the reorganization that took place in 2014. So, I am not going to cover every slide; I am going to kind of bounce around a little bit.

I am going to start on slide number three. In May 2014, in partnership with Coordinating Counsel, we decided to reorganize and invest in building out on effective litigation team with a focus on providing adequate spans of control for our staff leadership team to provide the appropriate oversight to all litigation files. The goal was to improve customer service by eliminating unnecessary protracted litigation, have a reasonable strategy around the appropriate allocation of resources, have a focus on developing litigation strategies around specific causes of loss, and most importantly, to develop consistent practices around claims handling.

Slide five. File segmentation is critical to develop litigation strategies and to enhance the overall quality of consistent claim handling practices. This enhancement created specialized handling units to carry out these strategies based on file segmentation, by cause of loss and strategic significance. Some examples are non-weather water, sink hole and catastrophe, just to name a few.

Moving on to slide number six. After creating the segmented teams and processes, the focus moved to the creation of a triage evaluation unit that was designed to review all incoming litigation for the strength of the overall coverage decision, appropriate handling of the claim pre-suit, and to assign the overall file strategy. The file strategies are to move for an early settlement if the evaluation indicated that any of the evaluation criteria was deemed incomplete. The second strategy is for limited discovery based on the evaluation criteria indicated as successful. Many of the suits received lack a description of what is actually being sought other than maybe a breach of contract. The limited discovery provides Citizens the chance to understand the details of the suit and to reevaluate the decision of whether to continue to move towards trial or move it back to a settlement candidate. The final strategy is to move the suit to trial for defense for that policy that was in force at the same of the loss.

Slide number seven. You may be wondering what makes a suit eligible for a trial candidate. We first verify that the adjustment process was consistent with our best practices and the claims decision was based on correct policy language. When both of these conditions have been met, Citizens moves the suit towards a trial solution which helps to reduce the new suits by Plaintiff Attorneys seeking an easy settlement under the one way Attorney fee statute. After this strategy was fully implemented, Citizens started to see increasing number of Plaintiff Attorneys abandoning the suit prior to trial.

Slide number eight. In order to make sure that Citizens is ready to move a suit to trial we decided to expand the utilization of mock trials. These mock trials are held so that litigation management and claims legal can determine the viability with the application focused on litigation strategies. This evaluation ensures the appropriate allocation of resources and the timely resolution of matters not deemed suitable for trial. During the process Citizens has the chance to vet the skills of Defense Counsel and the effectiveness of any witnesses. We believe that this process has helped Citizen's success in the overall trial outcomes.

Slide 10. I would like to draw your attention to slide number 10 to show you the litigation results since 2016. As you can see, our trial results have shown continued improvement in the overall percentage of favorability, along with the increase in final summary judgment based on our revised strategies. As I mentioned earlier, we have been seeing more and more Plaintiff Attorneys abandon their lawsuits prior to trial which indicates that they believe that they had no chance of a favorable outcome.

Slide 11. Another indication that our litigation strategies are working is shown on this slide. The slide represents HO3 multiperil litigation rates across time, with a peak in the statewide percentage occurring in March of 2016 at 52 percent. As litigation strategies were developed and fully rolled out as this took a little bit of time to actually occur, you can see the impact by the end of March 2020, with an overall reduction to 21.4 percent.

We will move on to slide number 12. Citizens rolled out a Managed Repair Program in 2017 as another strategy to help reduce the overall litigation rate. As you can see in the slide, as of 09-30-2020, there is a clear indication that those who entered the program are less likely to litigate those claims.

Slide 13. This represents Citizens total suits received on the left side of the chart as compared to the remainder of the industry on the right side of the chart. This graph represents that Citizens' suit activity is decreasing while the overall industry is seeing increases in litigation.

Slide number 14. This is showing carrier litigation experience from 2013 to 2020. The biggest take away from the slide is that Citizens' overall litigation decreased by 20 percent over that time frame, while all other carrier litigation only decreased by one percent.

Slide number 15. This shows the 2019 top 10 carriers by increase in suits over the period of 2016 through 2019. As the chart reflects, these carriers all showed an increase in excess of 100 percent, while Citizens showed a decrease of 3.8 percent.

Slide 17. I wanted to spend just a few minutes to discuss our Claims Legal team since it a vital part of our overall litigation strategies. The primary role of our Claims Legal team is to provide legal support and guidance to the Claims operation that is considered Attorney privileged information. The team of Attorneys consist of seasoned Attorneys with experience in insurance law and litigation.

I am going to jump down to slide number 20. The Claim Legal team takes the lead in determining whether to pursue or defend an appeal and manages them to conclusion. Some examples of some of the key strategic appellate results this team is focused on are Citizen's immunity, assignment of benefits, appraisal and earth movement to name a few.

Slide 21. The Claims Legal team plays a mission critical role in litigation avoidance strategies by design, drafting and development of key strategies and initiatives designed to resolve claims without litigation or in litigation in their early stages. Some of the strategies have included the Managed Repair Program, appraisal strategies, assignment of benefits and the Hurricane Irma settlement agreements.

Slide 23. Along with the litigation reorganization that occurred in 2014, we also invested in the creation of a Claims Legal services program with the objective to create a means to track Defense Counsel cross file aggregate hours billed. Create a score card to identify and analyze vendor performance, and to create a formal credentialing process to track and monitor Defense Counsel performance.

Slide number 28. It is critical for any vendor program to have a quality assurance program. This program conducts three different file performance reviews as follows. The first is a claims audit conducted by the litigation specialist. The second is a QA audit conducted by the Citizens' quality assurance team, and finally a trial or a mock trial audit conducted by our in-house Claims Legal Attorneys.

Slide 29. Another important component of the vendor program is to ensure the correct assignments to defense counsel. This is done leveraging a real time assignment tracker that allows Citizens to make immediate changes to Defense Counsel's status. It is based on performance management data along with criteria such as the firm's location and size,

the firm's capacity relative to the pending assignments, and firm approved areas of practice. This assignment process ensures that no firm is overloaded with cases and that each firm is in good standing with respects to the type of assignments made.

Slide 31. The last area of focus for our vendor program is on the aggregate hours billed for each Attorney and firm. Citizens developed a report that identifies each Attorney that has billed over eight hours total across multiple files in a single calendar day. Citizens worked with the matter management vendor to build a rule in the system that would prohibit law firms from submitting billing if the daily cross fill billing aggregate exceeded a particular threshold which allowed Citizens to attach these issues proactively while requiring the firm to submit documentation when the rule is violated. Citizens also worked with the matter management vendor to obtain a daily data feed which provides additional enhancements to the overall reporting available. And Chairman, that really concludes the presentation that I had for today.

**Chairman Kastroll:** Thank you, Jay. I appreciate it. It's really nice to see that we have such a vast process and procedure in place for making sure that an insurance company does what they say they're going to do, and that is the pay their claims in an efficient and timely way. And also it gives the insured the ability to go ahead when they think that the claim was not paid correctly, to go ahead and dispute it in a professional way and for Citizens to take a step back and see if we got this one right, the specific claim. So thank you so much. It's also nice to see that we have an auditing process and a quality control mechanism in place to do that and an independent review board to go ahead and oversee some of this. So thank you, Jay. Other committee members, do you have any questions, comments from Jay's highlights?

**Governor Henderson:** Mr. Chair, no.

**Chairman Kastroll:** Okay, thank you, Jay. And Jay, did that conclude your presentation?

**Jay Adams:** Yes, it did.

### **3. Litigated Claims Update**

**Elaina Paskalakis:** Good afternoon Chairman Kastroll and Committee members. I just want to provide you with a brief litigation update for today's purposes. As this is the first Claims Committee meeting we are having for this year I do want to start with just a brief year end summary of 2020. In terms of the new lawsuits we received in 2020, we did experience a 20 percent decrease in new lawsuits served as compared to 2019. As has been the trend about 98 percent of those lawsuits are Residential as opposed to Commercial. Eighty-eight percent of those are coming out of the tri-county area, and we also have eight percent coming out of what we call Central West, which is around the Tampa area along the coast, and that has been an emerging trend over the last couple of years. We have experienced a slight increase in the number of lawsuits where the insured is represented at the First Notice of Loss of the claim. That has gone up to 59 percent which is a four percent increase over 2019. In terms of timing of the lawsuits, we have also seen that they are starting to come in faster. So we have seen 42 percent filed within six months after the First Notice of Loss, and that is a four percent increase over 2019.

That is coming actually back to what we would say normalizing, because after we have a hurricane as we did with Hurricane Irma, we tend to see that the lawsuits will come in a little slower and now we are seeing them coming in faster again. The leading cause of loss of course remains Catastrophe at this time for both new incoming lawsuits and pending lawsuits. In terms of AOB lawsuits we have seen a significant decrease by 15 percent of the new lawsuits coming in in 2020 as opposed 2019, and we have seen a slight three percent increase for new incoming lawsuits for non-weather water as compared to 2019.

For our recovery and subrogation efforts, in 2020, we recovered over \$1.5 million total in recoveries with just over \$161,000 of that being returned to policyholders in the form of a deductible refund. For 2021, just a quick recap of what we have seen as far as January of this year, Catastrophe remains the leading cause of loss for new incoming lawsuits and we continue to see the downward trend for AOB lawsuits. We received five percent less AOB lawsuits in January of 2021 than we did in January of 2020.

And the last subject I just want to touch on is the fee multiplier issue. We did receive a favorable appellate ruling out of the Third DCA in terms of the application of fee multipliers, and in that case both the Trial Court and the Appellate Court supported Citizens' position that a fee multiplier was not warranted due to the plethora of Attorneys available for representation in the area which is a key factor. We also had or are starting to see a bit of a trend, I hope it is a trend, but favorable rulings at the Trial Court level in terms of fee multipliers where the Trial Court Judges are denying the request for fee multipliers, and we have seen particularly in the Miami-Dade area we are receiving favorable rules.

And with that, the only other thing I wanted to point out is under tab six is our Recovery Addendum with some cases of interest for your reference. I have nothing else to present today. I will certainly be glad to take any questions that you may have.

**Chairman Kastroll:** Okay, Elaina, thank you so much. A very concise report. I am going to ask you a question that probably requires your opinion. And so if you could let us know, that would be great. Why do you think that, and I think the number was--I can't remember what percentage it was--that were plaintiffs who make the first time claim with an Attorney? Why do you think they are making claims with an Attorney on their first crack at the claim?

**Elaina Paskalakis:** Just to remind you, it was 59 percent for 2020. And what we see are those claims that come in at the time they make the claim, that come in with representation typically are those that are going to litigation. So we tend to see more issues, of questionable issues with those claims, whether they're fabricated, whether they go into the fraud realm, but typically when they come in like that, it is because there is other factors other than the insured noticing or bringing a legitimate claim. I am not going to say that every one has a problem or is fraud, I am certainly not saying that. It is just that we see it more prevalently in those particular claims.

**Chairman Kastroll:** Yes, I just couldn't imagine, and I have made claims on my homeowners, going in with an Attorney without making the claim first. So it just seemed like a high percentage. So I wanted to get your opinion on that. Do you know of any ways that we could mitigate that or educate our client base to make the claim first with Citizens,

whether it through something in the policy when it is sent out or a mailing that we could go ahead and send out that the most successful claims are usually ones that are claimed directly first with Citizens? Do you have any thoughts on that?

**Elaina Paskalakis:** Well, first, certainly everybody is entitled to representation, right, whether it be by an Attorney, a Public Adjuster or whatever they may need to present a claim. I do know and maybe Jay can speak to this or Barry can speak to this more fully, but we do have an education program that goes on about calling Citizens first. And I believe we do that through flyers and other communications to the policyholders.

**Chairman Kastroll:** Okay, because I know the water loss education program has been very successful. So I wonder if we could carry that over in a capacity in your realm? And I don't know if Jay or Barry wanted to speak to that.

**Barry Gilway:** We have an extensive communications program, you know, around Call Citizens First. And that really is directed both at the policyholder level and it is also directed at the Agents. So we have, you know, a fairly significant education program for agents that really encourage the Agents to get involved directly. In fact, there is extensive tracking mechanisms frankly to determine what agents really are working closely with insureds to submit the claims directly, or whether the agents are really not encouraging, but at least openly letting their insureds align with the Public Adjuster or an Attorney to file the claim. I think your recommendations regarding changes in policy form, you know, are excellent and I do believe there is opportunity, but it would take Office of Insurance Regulation changes or it would require legislative changes. Some of them I believe are contained within SB 76, you know, as the proposed legislation this year. But I believe it is a matter of notice and requiring full documentation of the claim upfront before a suit could be brought as outlined in SB 76. It requires, you know, 30 to 60-day notice, you know, of the claim, and in order to frankly benefit the insured, it also provides, it would provide, that Bill would provide the insured, excuse me, the insurance company the opportunity to review again, you know, the claim to determine one more time whether it be the settlement offer was valid and revise that settlement offer. So ultimately you would have a pre-suit demand and a documented pre-suit demand, you would have a pre-suit offered by the company, you know, and you would have final litigation parameters if you will. And I truly believe would have a significant impact, Mr. Chairman. I think your point is really well made, but it is a matter really of getting into the Legislature a process, very similar in nature to the AOB process. You have seen the success of AOB, you know, and the process in place for AOB. Elaina and Jay commented on that, and I think if we can get something similar within SB 76, then we can get, you know, Chairman Rommel to include that in the HB 305, and I think it really would be advantageous and it might eliminate some of the activity that Elaina was reporting on.

**Chairman Kastroll:** Thank you, Barry. Any questions for Elaina?

**Governor Thomas:** Mr. Chairman, if I may.

**Chairman Kastroll:** Please.

**Governor Thomas:** Elaina, it is very nice to meet you, I think for the first time, albeit in this video format. I was curious, the emerging trend in the Central West market that you identified of increased litigation, do we have a cause of that that we suspect? Is it environmental factors, timing and location of storms, just a more aggressive legal market down there? Do you know what is driving that?

**Elaina Paskalakis:** We are seeing a more aggressive legal market. We are seeing some of the trends and the parameters and criteria that are in the tri-county area starting to creep up and the factors influencing the Tampa area as well, because we see the rise particularly in non-weather water. So it is not CAT driven, we started to see this before even Irma, but now we are really starting to experience that in the non-CAT areas. Certainly, we had the sink hole factors there, but those are subsided and now we are seeing other causes of loss.

**Governor Thomas:** That was kind of my concern. I litigate, I don't do this kind of work, but I see it seems to me that at last antidotally I see more and more pressure from that side of the bar. So thank you, thank you very much.

**Barry Gilway:** What I will be reporting on at the Board meeting is exactly the question that you are raising, and that is I will be reporting against the increased litigation rate and the frequency of loss rate, you know, by county. So you can see exactly what you are describing and that is an increased litigation rate, an increased severity rate and an increased frequency of loss rate, and you can see it frankly expanding from clearly expanding from the southeast. You know, slowly but steadily up through the western part of the state. So the direction is very, very clear, and the overall litigation by county that I will be reporting on is extremely clear. It is expanding fairly rapidly and fairly dramatically across the state.

**Governor Thomas:** Well, that is my concern, is that with the current incentives in place, with things like one way first party fee shifts and so forth we will see this continue to grow. I mean, you see it in all areas of the law. It was not that long ago that you hardly saw much advertising for auto accident cases and now it is ubiquitous. So that like I said, that was my concern, that that is what we are seeing.

**Barry Gilway:** Yes, sir.

**Chairman Kastroll:** Thank you. Any other questions? Elaina, thank you so much, I appreciate your presentation.

**Elaina Paskalakis:** Chairman, I think Governor Henderson is raising his hand.

**Chairman Kastroll:** I am sorry. Sorry about that.

**Governor Henderson:** It is okay, Mr. Chair. This is what you had brought up. I really want to know more about the education. I feel like, you know, how are we getting to these people flyers and some other, you know, avenues, agents, but I would like to know if any

of this stuff is truly working. Because I feel like if we could educate these people all the policyholders that, hey, you are going to get paid faster if you go through this mechanism, that they will go that route. But they feel for some reason that they're not being heard or something and they are having to go get an Attorney I am guessing. I am just speculating. But I would like to know more about the education process. And I don't need to know on this call, but maybe at the Board meeting if you could just give me some more info, Barry. I am not trying to take everybody's time here.

**Barry Gilway:** Governor Henderson, I agree with you completely. We have had a lot, a lot of discussions very recently regarding how we expand that education program. And I will call on Christine at the Board meeting to give us a brief update in terms of what we are doing today, and we can add that into the agenda of the Board meeting. And then, you know, and what the proposed plans are, you know, going forward to expand the education program.

**Governor Henderson:** Excellent. Thank you.

**Chairman Kastroll:** Barry, if I could, and this is just a suggestion, it is a longer term suggestion because it would require a significant amount of work. There are some insure tech insurance companies out there and these are the startup insurance companies that some of the millennials are using and others, and what they have done on the form side of insurance contracts is they have made them, the contract language more readable, and I am not suggesting we change our contract language. But what they have also done is they have put a couple of pieces inside of their policies sort of on top that are more user friendly and they're not exactly the forms themselves, the policies themselves. But they are just a lot more user friendly. The wording is more concise and clear and every day for, you know, folks not in the industry. So maybe there is something that we could long term look at on a pilot level to communicate in more, not transparent, but communicate more in every day language to some of our clients and insureds.

**Barry Gilway:** And Mr. Chairman, I think that is an excellent idea. I think what we have discussed in the past is putting some form of like executive summary of coverage that would be, you know, in front of the actual policy form itself. As you indicate, it is becoming more and more critical, because unlike many states the reality in Florida is every single company as you know has a very different form and they are providing different coverages with different endorsement restrictions, different, you know, criteria. So I think it is an excellent idea and something that we should pursue.

**Chairman Kastroll:** Thank you, Barry. Okay, I think that no one else has questions for Elaina. Okay, thank you so much, Elaina.

**Elaina Paskalakis:** Thank you.

#### **4. Non-Weather Water, Managed Repair Program, and Assignment of Benefits Update**

**Michael Carver:** Good afternoon, Mr. Chairman, and Committee members. For the record, this is Claims Director, Michael Carver and I will be giving this Committee an

update on non-weather water claims, the Managed Repair Program and our work around Assignment of Benefits.

As I reported in the last Claims Committee meeting, we have continued to experience increased volumes of non-weather water claims. The spike in claims started back in mid 2020 and continue through January 2021. To give you an idea of this increase, we were averaging 878 non-weather water claims per month through mid of last year, and this has increased to about 1,200 claims per month. So we are seeing about a 300-350 average increase per month since mid last year. And when we took a look at that, it is really the growth in non-weather water claims is really closely tracking with our increased policy in force count that we have experienced. And the other thing we noticed is that whenever our hurricane claims or the ability to file those claims decrease, like Hurricane Irma last year back in September, we see those non-weather water claims start rising. So between policy in force count and of course the Irma claims that toll back in September, is part of that we feel. Plumbing leaks continue to represent the majority of reported non-weather water claims, and 67 percent of those claims were reported under the HO3 policy. What is interesting is we continue to see approximately 50 percent of our non-weather water claims continue to be represented by a Public Adjuster, an Attorney or both. But the good news is despite the increase in non-weather water claim volume, the claim customer satisfaction score increased from 86.8 percent in 2019, and then last year we see it increase to 88.6. So even though we are seeing on month after month an increase in reported non-weather water claims, our customers are satisfied with our claim service.

So moving on to the Managed Repair Program. So regarding the Managed Repair Program, as was reported in the last Claims Committee meeting, the free water removal service continues to be very popular for our customers in need. The participation rate for both the free water removal service and the permanent repairs portion of MRP continue to increase over time. And one of the things that we really try to do, and I know Chairman Kastroll and Governor Henderson, you mentioned about educating the customer. So we do everything possible to get in front of this when we do speak with our customers, or when we interact with our customers. And one of the things, well, several things we do, but just to give you an example. Our goal is to make contact with our customers within 24 hours of the claim. And we typically hit that mark on a regular basis. The other thing is we have a brochure that explains the entire Managed Repair Program. Obviously we offer a free water removal service at the First Notice of Loss. But one of the things I wanted to mention and I think I mentioned this maybe in the last meeting, is that we did create another piece to educate the customer, which is at First Notice of Loss we actually send out a letter explaining the Managed Repair Program, and we actually send that brochure to the customer. So we try to do everything possible around the Managed Repair Program. And here again, I think that is the reason why we continue see increased participation rates around not only just our free water removal service, but also the permanent repairs portion of the program. Now, effective with February 1, you know, we are always looking at how do we improve the program, how do we give better customer service. And this goes back also to the education piece. So effective February 1, and obviously we have got to go through a renewal cycle. But all of our HO3 and DP policy renewals, there was a new policy language implemented, and this new language is designed to better inform the insured and the insured's representative if applicable, the

benefits and requirements of participating in MRP. So the major changes, and here again, we did several, we made several changes, but I pulled out three very important points that I think the Committee would be interested in. Is we now require written consent from the insured to participate in MRP. Previously it was only a verbal consent was required. So the Adjuster, if it is a covered loss, if it's eligible for MRP, we would explain it to the insured. We would offer the program and then the insured would need to consent to the program. So now we have written consent. And in that written consent it really goes through in detail a lot of the benefits of MRP, what if you do not participate in MRP and those types of things. The second point, the insured must execute a contract with the network contractor within 10 days once that contract is delivered to the insured. And really this just eliminates the possibility of additional damage to the property and allows the network contractor to get repairs started in a timely manner. And then the third item, we just set some new eligibility criteria for terminating a program participation. There was some new criteria around our ability to terminate program participation when there is unfavorable items and we can't move forward with the MRP repairs.

Another point I would like to make is similar to our MRP customer satisfaction levels, our satisfaction levels for MRP, the MRP program was 86.4 percent in 2020, which is 3.2 percent higher than that in 2019. So our MRP customers, we have done a lot of work around, you know, making sure our customers understood the program. Making sure that they understood how the claim process is going to work going forward, what should they expect from the contractor, all of those types of things. And I think that is paying off in our customer satisfaction levels.

So now I will move on to the update on the AOB initiatives and work. So really there has been no real significant changes since the last Committee report out. But I would just like to just reiterate a few points. Eighty-seven percent of our agreements are related to non-weather water and wind claims. Wind AOB significantly reduced with the reduced catastrophe season. Fifty-eight percent of agreements involve emergency services. The other 42 percent are related to permanent repairs. So as you will recall, there is a \$3,000 limit for emergency services per HB 7065. AOB agreements spiked from June to September of 2020, due to Hurricane Irma claims, as those claims are due to tolling in September of 2020. What is interesting is notices of intent to litigate represent 21 percent of all of our agreements received. So if you really think about it, I mean, the majority that we see come through with AOB agreements, we do not get a notices of intent to litigate. Most are the result of denials. Most of the NOIs we call notice of intent to litigate are a result of denial where coverage was not affordable. So there was no coverage in the policy for something like wear and tear, those types of things, or the service provider invoiced more than the \$3,000 cap on emergency services, or the third item is just an overall challenge to the AOB legislation.

And my last point, Mr. Chairman, is 72 percent of total assignment of benefits received are represented by a Public Adjuster. Usually about 31 percent of AOBs are Public Adjuster. We have got another 30 percent that are represented by an Attorney, and when you look at both, representation from a Public Adjuster and an Attorney, those AOB agreements are about 11 percent. So Mr. Chairman, that concludes my report and I would be happy to take any questions that you or the Committee members may have.

**Chairman Kastroll:** Thank you, Michael. I do have a comment. Well, first of all I want to congratulate you for gaining two additional percentage points, roughly 86 to 88 percent. That is a very difficult thing to do, especially during or after a storm, long term tale of a storm. So your customer satisfaction of claims has gone up, so congratulations. And please congratulate your team on behalf of me and the rest of the Committee.

**Michael Carver:** Thank you.

**Chairman Kastroll:** And I also want to congratulate you on your success of the Managed Repair Program. The comment I would like to make and I casually made this before I think to Barry or Jay, that program is portable, and Citizens is the largest insurance company in the state of Florida for homeowners, condos. And we have the data, we have the data and the program in place because of you and your team. I would love to take that Managed Repair Program and open it up and teach other insurance companies, especially domestic insurance companies in the state of Florida, how to operate that program. We are not in competition with other insurance companies. In fact, we would love to give business to other insurance companies. And if we can make other insurance companies more successful through programs, successful programs that you guys launch and show them the data and show them how to do it, it is portable in the sense that they could pick that program up and put it inside of their insurance company. I think that would be a really genuine thing for us to do to help the other insurance companies and show them the success and the data. I know it is adding something additional to your plate, and we might have legal issues and other issues associated with it, but I would love to be able to do that. And I think of, you know, the CEO of Olympus who used to work at Citizens, whose name is drawing a blank.

**Barry Gilway:** Steve Bitar.

**Chairman Kastroll:** Steve Bitar, yes, thank you. You now, I would think someone like him who is just overwhelmed, not him, but his company is overwhelmed with claims and they are smaller than us, and for us to be able to present this package for him to insert into his insurance company or other Demotech rated companies in the state of Florida, I think it would be successful. So that is my comment. Thank you.

**Michael Carver:** Thank you.

**Barry Gilway:** Yes, Mr. Chairman, Barry Gilway. Just one comment. One of the elements I think that really support what you are saying is that I didn't hear in Elaina's report, but she talks about it all the time, and that is when we do have MRP, litigation is eliminated. I mean, we literally have virtually no litigation following the permanent repair implementation following MRP, which if you think about it, it is absolutely staggering. So it really truly shows that if implemented effectively and Jay, Elaina, and Michael, the whole team have done such a fantastic job. When you implement this effectively, it can a direct impact on litigation. And that is why I truly believe that is why we have shown one of the elements as to why we are showing so much improvement relative to the rest of the industry. And we do have some very unique aspects to our Managed Repair Program as

Michael indicated. Like the free water mitigation. No other company to the best of my knowledge in the state of Florida, you know, has a free water mitigation program, and if you can get in there and fix, respond effectively to your customer, fix the water mitigation problem and explain, you know, how extensive our warranty is on the provisions, it is a very, very compelling program. So I think we have two objectives. One might be the objectives to expand it beyond Citizens, but I think Michael and the rest of the crew would agree, you know, we are working hard to try and get that more readily accepted, you know, across the Citizens spectrum, also.

**Chairman Kastroll:** Thank you. Any questions for Michael?

**Mr. Palmquist:** Mr. Chairman, this is Jon Palmquist. It's not so much a question as it is just a further to your comment. Over the years we have seen a lot of very innovative ideas created by Citizens, and I sit oftentimes and just marvel at some of the unique solutions and approaches that Citizens has developed. But I also feel the same way as you, in that if they could be shared. It's not Citizens' job to share and educate the industry, but we have seen some innovated solutions at the last meeting. We heard about the new Xactimate program that they were working with to develop. No other company has that. The litigation management, the litigation presentation we heard today. The CAT work flows that we have seen over the years. To the extent we can and that antitrust laws don't create problems, I think that a lot of these ideas could be floated to make the Florida marketplace in general a much better, much stronger place to address consumer losses because that is what we are here for, to address the losses that consumers suffer from, and to the extent that we can address those and remediate as quickly as possible we are in much better shape. So just my two thoughts, two cents for that.

**Barry Gilway:** I have to tell you, I have been in the business a long time. I have never seen anyone, any individual that is quite as innovated as Jay Adams. I think Jay is an incredibly innovated claims executive and he is fortunate to have people like Elaina who on the litigation side and the rest of the team that are not only just as innovated, they are aggressive in terms of implementing new initiatives and new programs. So I appreciate your comments and we will have to give that some consideration in terms of what might be doable. Because I think there are many programs that Jay has come up with in the Claims area, and frankly now Kelly Booten is coming up in her areas of responsibility, you know, in the underwriting and IT areas that other companies could take advantage of. So thank you for comments.

**Mr. Palmquist:** Well, not belabor the point and thank you for that, but Citizens has scale that a lot of the other Florida companies don't have and can't invest in the research and development that Citizens has. So that would be greatly appreciated I am sure amongst some of the smaller companies here in Florida. Thank you.

**Chairman Kastroll:** Thank you. All right, thank you so much for your comments, Michael. I appreciate it, well done.

**Michael Carver:** Thank you, Mr. Chairman.

## **5. Vendor Update**

**Greg Rowe:** Good afternoon, Mr. Chairman, other committee members. So the first item on our agenda today really revolves around what Mike was just saying for the non-weather water claims. It is for our Water Mitigation and Mold Remediation Estimate Review Program. So in this program we leverage a vendor today to perform an independent and objective review of all water mitigation invoices submitted from any mitigation company. And this review when they go through everything, determines if those invoices submitted to us are reasonable and in adherence with industry standards and guidelines. And also part of this contract that at our request to utilize the vendor to perform an objective review of any mold damages if mold was discovered during the water mitigation process. We have had a contract in place with Lynx Services, that is the vendor that we have in place today, since August 8, 2016, and that current contract expires on August 7, 2021. So we have had over 18,000 assignments during that contract period go through the Lynx review process, and we have seen substantial reductions from the original invoice had amounts and certainly wish to continue on with this program, especially with our non-weather water claims generating quite a bit of claim volume on a monthly basis. So on August 25, 2020 we released an RFP for this water mitigation and mold remediation estimate review program, and it resulted in six vendors submitting proposals. After evaluating all the proposals, the notice of intent to award was published on November 17, 2020, with an intent to award this contract to Lynx Services, the vendor we have in place as the primary vendor, and a contingency vendor with The Fast Team, LLC should Lynx be unable to perform under their current contract. The estimated contract is for \$1,678,500 for the recommended three-year base term of the contract. And then \$1,347,680 for the two one-year renewal options, which brings us to a total of \$3,026,180 for this particular program. Mr. Chairman, I will pause there and see if there is any questions before moving on to the recommendation.

**Chairman Kastroll:** Any questions?

**Mr. Palmquist:** Mr. Chairman, this is Jon, I am sorry, I did have a question.

**Chairman Kastroll:** Okay, proceed.

**Mr. Palmquist:** I may have missed it, but what was the -- was there an increase in pricing from Lynx with the new term?

**Greg Rowe:** There was not in their base contract, but in the additional as we move into the renewal contract, the two one-year options, there would be a slight increase for those.

**Mr. Palmquist:** And what would that be?

**Greg Rowe:** I would have to get the exact figures. I don't have that exactly right here in front of me.

**Mr. Palmquist:** Okay.

**Greg Rowe:** We can certainly provide those, but it is a five percent increase.

**Mr. Palmquist:** Okay, thank you.

**Greg Rowe:** Yes, and that five percent increase, Mr. Palmquist, they bill on a per assignment billing. So every assignment that comes to them, it would be five percent more in years four and five of that contract. And we gave them the opportunity to provide their billing as they move forward.

**Mr. Palmquist:** And this is for providing a review and feedback of the initial mitigation that was done, correct? They're not negotiating with the original vendor?

**Greg Rowe:** They do have the ability contractually if we want them to, to potentially secure. If a firm has overcharged us, we could leverage them to go see if they could recoup some of those funds.

**Mr. Palmquist:** Right.

**Greg Rowe:** We typically don't do that today. But it really is intended, you know, we have a lot of claims that come through our free water mitigation program, but those we QA on our side. They are subject to the contract terms with Contractor Connection, we have our best claims practices. So we can QA those and reduce those based on our contract we have. With these outside mitigation invoices, we don't have them under contract at all. So we have seen a lot of those that come in that are just astronomical, way too high and we send those over to Lynx and they look at it up against the IICRC standards which is just, you know, it is the non-profit certifying body for anything to do with cleaning and restoration. And they look at it and say, here is what you charged. Based on all the information that you have provided us, dry out logs, water, everything that you would need, this is what it should be. So then that allows Mike Carver's team to go back to that water mitigation company and say, this is the standard, this is what you charged us, there is a huge discrepancy. And so we work very closely to ensure that if we are going to pay for those, that it is certainly appropriate.

**Mr. Palmquist:** Is the team that receives those reports IICRC certified?

**Greg Rowe:** At Lynx, yes, they are.

**Mr. Palmquist:** No, I am sorry, I meant the Citizens team that receives the reviewed invoices and then negotiates against the mitigation company that provided the original services.

**Greg Rowe:** I do believe we have some that are. I cannot say that all of them are.

**Michael Carver:** Greg, I can comment on that. Yes, so what we did put in an initiative. So we thought that it was important that our own people get IICRC certified. I can tell you 95 percent of all of our field people that look at those are IICRC certified. Now, what really helps us is when we get these, a lot of these are inflated, I will be honest with you. So

what we do is take what Greg said, the logs and the documentation and we get that over to a third-party which is Lynx. So that helps us say, okay, well, most people think that insurance companies don't want to pay what they owe, you know, a lot of folks do. So at least we have a third-party that looks at it and says, okay, based on your services, based on the work performed, based on your documentation, here is what we think your services are worth based on market prices. So what it does for our people is, our Adjusters take that and we apply good judgment, we apply settlement provisions to it, and we can make adjustments to it. If we think there is additional information that Lynx didn't have at the time, we can make adjustments to those. But that is a starting point for the Adjuster to look at it and have a third-party look at it so that he can make a fair assessment on what the services are worth. But we use Lynx quite a bit. But yes, to your question, our folks, 95 percent of them are IICRC certified.

**Mr. Palmquist:** What percent, I am sorry?

**Michael Carver:** Ninety-five.

**Mr. Palmquist:** Okay. For the benefit of the committee it is helpful in what I have seen in the industry, that once a vendor like Lynx returns the estimate to the Adjuster, the review of the Adjuster, the Adjuster negotiates with the original mitigating vendor and does not have the depth or experience to try to debate or negotiate successful because they don't have a proper understanding, whereas those with the IICRC certification can argue on the basis of the technology and the standards and usually receives or is able to get some pretty good results. Now, I don't know if you guys track the amount of litigation that comes out of those, those reviews or vendors, but as you say, sometimes the actual amount is sometimes as great as five times the amount that the Lynx type vendor will recommend.

**Michael Carver:** Well, just one more point, Mr. Palmquist. We put that initiative in place back probably a year and-a-half ago because we were bouncing up just what you just mentioned. You know, really the Adjusters felt like they weren't fully trained, IICRC trained.

**Mr. Palmquist:** Right.

**Michael Carver:** So we put that in place. And like I said, there is only a small handful that still need to pass the test. But for the most part I think we have made some head roads in getting our folks trained so they feel way more comfortable looking at those and they can speak intelligently that do charge us five times as much.

**Mr. Palmquist:** That is great. Thank you.

**Greg Rowe:** The last follow up on that, what it also does is, you know, outside of the MRP for emergency water removal services, there is that \$3,000 limit. So what it prevents is just these water mitigation companies coming in and just saying, we know that limit is there, we are just going to get that \$3,000 every single time. We don't want to roll over and just pay that. So there is plenty of invoices that are below that \$3,000 limit that Lynx helps us identify and keeps those water mitigation companies honest.

**Mr. Palmquist:** Thank you.

**Chairman Kastroll:** A technical question, Barbara, if you are on. It is 2:00 now. Do we need to extend the meeting with a motion?

**Barbara Walker:** No, sir. This meeting was noticed with a 1:00 start and not with a 2:00 end time. So you are good.

**Chairman Kastroll:** Thank you. Are there any other questions?

**Governor Thomas:** Mr. Chairman.

**Chairman Kastroll:** Yes, Governor.

**Governor Thomas:** The not to exceed number is inclusive of all the services from Lynx and/or Fast Team, not just the initial review, but if they have to become testifying experts in litigation that is captured in this budget number as opposed to our next action item which discuss fees and costs otherwise?

**Greg Rowe:** That is correct. Yes, anything relative to do with Lynx, any of their services that we contract for, all of the money obviously that is accounted for the contract is inclusive of those.

**Governor Thomas:** Thank you. Thank you, Mr. Chairman.

**Chairman Kastroll:** Thank you. Greg, can you go ahead and proceed?

**Greg Rowe:** Yes, Mr. Chairman. If approved at this February 23, 2021 meeting, the Claims Committee recommends that the Board of Governors approve the Water Mitigation and Mold Remediation Estimate Review Services contract with Lynx Services, LLC, as the primary award, and The Fast Team, LLC, as the contingent award for an initial term of three years and two optional renewal terms of one year, for an amount not to exceed \$3,026,180 as set forth in this Action Item, and authorize staff to take any appropriate action consistent with this Action item.

**A motion was made by Chairman Kastroll and seconded by Governor Henderson to approve and recommend Board approval of the Water Mitigation and Mold Remediation Estimate Review Services Action Item. All were in favor. Motion carried.**

**Greg Rowe:** Thank you, Mr. Chairman. So the next and final item for our current claims legal services contract really revolves around looking at some estimates that were provided back in 2015. So as a part of our normal business Citizens regularly engages outside law firms to provide representation in claims related pre-suit and litigation matters. A lot of what Elaina spoke to today, obviously involves them 100 percent. So our current inventory of law firms was procured via three separate solicitations, and the firms awarded under each solicitation comprised the current 100 plus law firms that make up the Claims

Legal Services contract which has a base term of five years with a two one-year renewal option available with the full contract ending on February 3, 2023. So I said back in '15 there were some numbers presented to the Board. At the December 9, 2015 Board meeting Citizens provided an estimated annual spend amount for each of the seven years, which at the time was based on a trend in reduced litigation claim volume. And during that meeting the Board approved the seven-year total estimated spend of \$350 million. So that estimated spend was tracking accurately up until 2017, when Florida was directly impacted by Hurricane Irma. As you can see in the Executive Summary on page 2, the number of new litigation matters increased from 7,475 matters in 2017, up to 13,042 matters in 2018, and even in 2019, was 9,509. So such that the volume of claims litigation resulting from Irma has led to a greater anticipated Outside Counsel spend that was not accounted for under the original contract estimates provided to the Board back in 2015. And as Elaina mentioned, even though the number of new claim related lawsuits has decreased from its peak back in 2018, in looking at the numbers, Citizens continues to see a volume of pending litigation that is just significantly higher than the total pending litigation experience prior to 2016. So in response to that Citizens has now updated the projected spend and estimated that an additional \$180 million in contract authority is necessary to cover the last two remaining one year renewal terms. So Mr. Chairman, I will pause there. I know I have said a lot and there is probably some questions, but I will definitely pause for any questions before moving to the recommendation.

**Chairman Kastroll:** Any questions? Okay, please go ahead and proceed, Greg.

**Greg Rowe:** Thank you, Mr. Chairman. The staff proposes that the Claims Committee review and if approved recommend to the Board of Governors, authorize the recommended increase of the total contract authority by \$180 million to cover the last two years of the seven-year total agreement from \$350 million to a total amount not to exceed \$530 million as set forth in the Claims Legal Services Action Item, and authorize staff to take any appropriate or necessary action consistent with this action item.

**A motion was made by Chairman Kastroll and seconded Mr. Palmquist to approve and recommend Board approval of the Claims Legal Services Action Item. All were in favor. Motion carried.**

**Chairman Kastroll:** Okay, great. I want to go ahead and before we get into new business, just review two items from the recovery cases. This is always in the packet at the very end. In 2020 total gross recoveries in the recovery cases of interest were roughly \$1.5 million. And that is a large number and it is a great number. So Elaina and team, please thank everybody on your team who is out in the field, please ask the police officers that you work with, the Attorneys that you work with and any other organization that you work with, thank them on behalf of us, because that goes noticed by all the other folks out there that are trying to scam any entity. When they see that you have a force out there fighting this, they tend to, like electricity, find a path of least resistance and go somewhere else. So congratulations on 2020. And then specifically a nice case that I saw in there was a major case update during the fourth quarter, SIU's investigation into a roofing contractor in West Central Florida. They supported, it is supported by engineer inspections, the representatives of the contractor solicited homeowners and intentionally

damaged the insureds' roofs. To date the SIU completed investigations of 43 claims and submitted 23 of them referrals to DIFS. So I just can't even imagine in good faith asking a roofer to go up on your roof and then intentionally damaging your roof to go ahead and make a claim. I just have no words for that, but great job on finding that out and thank you for that.

## **6. New Business**

**Chairman Kastroll:** We have three speakers who are going to come on board. They have three minutes to go ahead and speak. Before that I do have an item of new business and maybe some other folks have new business, and I will start with mine. There is one thing that I would like to see if we can do, and this is a question for Jay and possibly Barry. I am interested because the last duration I have looked into claims and settlement of claims, and I am just shocked at the high percentage of Attorneys' fees compared to the claim. I ran across one today that the Attorney's took 85 percent of the overall claim from the insured. To me that is an alarming number and this is within Citizens. Is there a way that we could publish, look at this data and publish this data to the Board that shows what percentage of the claim that Attorneys are taking? Jay and Barry, I don't know if that data is readily available.

**Jay Adams:** The first thing I would like to comment on is, we don't always know what the Attorney fees and costs are associated to litigation. The reason for that is some of these are awarded through the Courts in a global settlement. So we don't always know what those fees and costs are. You know, if we negotiate a settlement sometimes we do know what those fees and costs are. When it comes to the settlement of the actual claim once it's into litigation, the insured should be entitled to the amount of award for the claim. And then the fees and costs are extra, and those fees and costs just get added to the total claim. So the example that you spoke to today, the insured was indemnified for their individual loss, right. But the excessive fees and costs could have been awarded through the Court system. A lot of times we will litigate those fees and costs part of it as well. And since we don't always have the data it would be very difficult for us to provide the Board or this committee that information holistically. We can give you our best guess on the subset of claims that we do know.

**Barry Gilway:** Yes, Mr. Chairman, just an addition. There is a very interesting report that I believe I forwarded to Board members. It was complete by Guy Fraker. It's really delves into this issue from an overall industry standpoint in a very detailed way. I would suggest it would make very, very good reading. I won't quote the numbers directly from the report, but clearly it indicates that the actual indemnity payment that the insured receives in the vast majority of cases is significantly below the Attorney costs. If I throw out the number that Guy Fraker came up with in this detailed analysis, it would be on the edge of disbelief. So I won't throw out the numbers. I just refer you to the report. I will be more than happy to provide a copy of that report. It's not a Citizens report. It is an independent report that was conducted by and funded by a number of private insurance companies in the state to do an analysis. But it does provide some significant detail associated with, you know, the percentage split. We have done individual file pulls and to come up with the totality of what the indemnity payment is and what the defense cost component is and what the plaintiff cost component cost is, but I think the last one that was done in detail I believe, Jay, I

believe was in 2018, representing about 8,100 file pulls. So we don't have the detail as Jay indicates, Mr. Chairman, but there are sources that I think that could provide you with a better understanding, and this Board, this Committee with a better understanding of what that split is.

**Chairman Kastroll:** Am I allowed to see that report of 2018, is that accessible?

**Barry Gilway:** Yes, we can absolutely provide you with that report.

**Chairman Kastroll:** Okay, I would like to take a look at that, thank you. Any, Governors, any other new business you would like to discuss before our three speakers?

**Governor Henderson:** Not me.

**Chairman Kastroll:** Yes, Governor Reynolds.

**Governor Henderson:** I said, no, I was just saying not me. I am sorry, I am just saying I am good.

**Chairman Kastroll:** Okay. Thank you so much.

**Mr. Palmquist:** I don't either, but I also would like a copy of that report as well if it could be one. Thank you.

**Governor Thomas:** If I could ask maybe if Ms. Paskalakis is still available. I would assume that the standard fee arrangement in these cases are contingency fee agreement where the plaintiff's Attorney takes 33 and a third or 40 percent or the awarded fee, whichever is greater. Is that what we typically, do we know that is what the typical fee arrangement would be?

**Elaina Paskalakis:** Governor Thomas, we don't often have visibility into that. The fee agreement between the insured and their Attorney is not typically relevant to even a fee hearing sometimes. So that is not something that we can even require to be provided to us. So what I can say is that what we commonly refer to as the one way Attorney fee statute, that is what controls the award of fees. And so it has no correlation in that statute. There is no correlation between the indemnity recovered under the policy and the fee awarded. It is based just on reasonable fee. Typically it is hours and hourly fees that go into that consideration for the Court. So it is not like a contingency, a typical contingency fee in the third-party realm where there is a statute that controls. It's very different for first party. And to the point that you are getting at, we don't always, like I said, we are not privileged enough to see or even to ask for the fee agreement between the insured and their own Attorney. It's very rare that we can even ask for that.

**Governor Thomas:** Sure, sure. All right.

**Chairman Kastroll:** I was just rather shocked at the case we were looking at some time ago, I don't know exactly, but it was a \$200,000 loss and the Attorneys took \$750,000 on top of that. And that is just a tremendous amount of money for a \$200,000 claim.

**Governor Thomas:** Mr. Chairman, if you look at the Executive Summary, and I know these are kind of the worst-case scenarios because they are cases which have been litigated, lost and there is not just a fee award, but there is a risk multiplier being applied, but the numbers, they are few in numbers, but then they are staggering. You are looking at things like a \$43,000 fee award on a \$2,700 indemnity claim. And from my experience, I mean, the problem with this is, the one-way fee shift means that there is too large of a segment of the legal community that views these claims as being in service of the lawyer as opposed to the lawyer being in service of the insured. The claims exist is a vehicle to tax fees, not the other way around is my concern about a large number of these and I say that as a lawyer.

**Chairman Kastroll:** Thank you, Governor. Okay, any other new business before we have the three speakers? Okay. I am going to let Barbara coordinate this into our three speakers that are listening. You have three minutes and just so you can wrap it up, I will give you a cue 30 seconds prior to your three minutes being up. So I will just say 30 seconds left. Okay, Barbara, go ahead, please.

**Barbara Walker:** Thank you, Chairman. Our first speaker that is available right now is David Murray. If our tech will go ahead and make sure that he has an open line. David, are you there? Mr. Murray, are you on the line?

**David Murray:** Yes, ma'am, I am on the line. Can you hear me?

**Barbara Walker:** Yes, I can. Thank you so much. Your three minutes has started.

**David Murray:** Thank you, Chair and members. Governor Thomas, you asked a question a couple of minutes ago of whether the fee agreements operated 33 and a third percent or the Court awarded fee. That is correct. I am a practitioner that has represented insured and first party insurance matters throughout the state of Florida based out of Tampa for almost about 20 years. And you reference the schedule of the multiplier awards in the claims executive summary and I have looked at it. And what you see in there is that on less than .06 percent of the time a Court has awarded a multiplier. Out of a three-year period there has only been 19 cases that I see in your list, and as a result four of those times there was no multiplier awarded by the Court. And that is important, because we have conservative Judges that have been appointed by our Governors that are the gatekeepers of the multiplier and they conduct these hearings. What you also see is through your own data is that 20 percent of the time when there is a fee hearing there is no multiplier, and that is what is set forth in the data that has been provided. Only in rare and exceptional circumstances are multipliers awarded, and based upon the executive summary, the average multiplier is 1.45. And what is not contained within this executive summary is how many hours that defense counsel for Citizens worked on the case. Because that really does have a big play as to how much, how many hours are incurred by the plaintiff's counsel in the case. If you look at all of the cases, all but five of the cases

are less than \$100,000, which are smaller, smaller claims, but yet the Attorney's fee award is larger, and most of the time because it's a simple mathematical calculation. What is the hourly rate times what are the hours that are involved in the case. And so what would be interesting is to go back to the 2008 study and look at how many hours Defense Counsel for Citizens spent working these cases and these cases moving along, because the indemnity portion does not have anything to do with the Attorney fee. If a claim for \$10,000 is denied and Citizens takes the case to trial which is rightfully --

**Chairman Kastroll:** I have 30 seconds, please.

**David Murray:** Thank you. And the Attorney spends 300 hours prosecuting the case and trying the case, if the insured wins you multiply those 300 hours times the hourly rate and that equals the Attorney's fees award. So although the claim may only be a \$10,000 claim, that insured is in litigation in order to try to get that \$10,000 that they believe that they are entitled to.

**Chairman Kastroll:** I appreciate -- David, I am sorry, your three minutes is expired.

**David Murray:** Thank you.

**Barbara Walker:** Next up, Chairman, is Amy Boggs. Amy, is your line open?

**Amy Boggs:** Yes, can you hear me?

**Barbara Walker:** Yes, I can hear you. We have begun your three minutes. Thank you.

**Amy Boggs:** Thank you, Chairman and Governors, and I appreciate the opportunity to address you here today. I am a 20-year practitioner as well who started off my practice in the defense side, and now I represent policyholders. I think that we can find common ground with the Claims Committee for Citizens, in that we all want the best for homeowners and policyholders here. Unscrupulous roofers are not helpful to homeowners nor are they helpful to insurance companies. We have a common ground here to help homeowners to get their claims paid timely and efficiently. To that end I would suggest that this Committee take their responsibility in handling claims maybe to the next level and look at and talk with homeowners and talk with folks who have litigated with Citizens for six years on a case and then ultimately won. Those are the stories that you really need to hear from. Those are the cases that create these imbalanced fee awards. The question isn't why is a \$100,000 fee awarded on a \$10,000 case. The question internally should be, why are we litigating to \$100,000 a fee incurred on the side of a \$10,000 case? At some point Citizens needs to make a business decision about that. Citizens' commissioned a \$700,000 study about insurance, et cetera, recently, and the questions weren't put to the homeowners. How satisfied are you in the claims handling? There is a discussion about educating insureds. That is great. Let's also educate the Adjusters. Litigation in claims begins and ends with the unhappy homeowner. There are maybe outlier Attorneys that are running out there trying to grab claims, et cetera, but for the most part and this is so true, people don't want to be involved in lawsuits. They want their house fixed and done, whether it be by managed repair or what-have-you. The way to cut that

off is to handle the claims well to begin with, and if they haven't been, there is a lot of talk about the one-way fee statute. There are proposals for settlements and other things that can happen. But I have been involved in claims where we are two years down the road and the litigation adjuster is saying to the corporate rep CFO, yes, we probably should have done this better. Confess judgment. Do some things to adjust the loss quickly in --

**Chairman Kastroll:** Thirty seconds.

**Amy Boggs:** So what I would implore you do is take a look at the litigation and the imbalance perhaps of the time and energy that your Attorneys are spending fighting valid claims or claims that they are going to lose and consider how this is affecting the insureds. The plethora of litigation frankly is indicative of the claims process not being handled well. I appreciate the opportunity to address you and I would ask that you guys consider talking to some homeowners. I would be happy to supply some to you. I have a homeowner --

**Chairman Kastroll:** Thank you, Ms. Boggs, your time is up.

**Amy Boggs:** Thank you.

**Barbara Walker:** Next up, Chairman, is Bill Merlin. Mr. Merlin, do you have an open line?

**Bill Merlin:** Yes, can you hear me?

**Barbara Walker:** Yes, we can hear you, sir.

**Bill Merlin:** Great. Thank you very much. I will be brief. First of all I was on the Citizens Property Insurance law property insurance reform task force over a decade ago and I am very impressed with the management of claims. It's much more sophisticated than it was over a decade ago and I think they're doing a great job. With respect to Citizens obviously trying to do better with respect to claims and digging into what is going on in the claims process. It is just refreshing to see. It's also refreshing to see that there has been a significant decrease in the amount of claims that are being brought against Citizens, and that the AOB claims have dramatically dropped. Even more claims have been dropped in comparison to other insurance companies. That is to be congratulated. Additionally, going from 510,000 disputed claims where they just walk away to 1,000 in four years, it a significant increase and shows that these cases are being litigating, litigated and not just being rolled over and paid. At the same time the number of lawsuits as the percentage to other insurance carriers that Citizens has far out strips most other insurance companies. There are more litigated claims, and in regard to the percentage of written premiums that Citizens has than other insurance carriers and you have got to ask why. And part of that is you do take a harder step, you are not going to roll over, it is going to cost you a lot more money. When you get above five percent in your legal expense fees to your gross written premium you have got a problem, and I would suggest you do have a problem because of that and you need to take a look at that. Mr. Palmquist, I agree with you 100 percent. I wish insurance companies could go ahead and share all kinds of information. Everybody as a competitor can, but there is a problem with respect to antitrust, and before everybody starts doing that, I suggest that they talk to their General Counsel. Those are,

you know, my biggest thing. The last thing is the transparency that Ms. Boggs asked with respect to what do your customer really think is going on at the point of the claim, before they file a lawsuit. You need more transparency, dig into those customers, what really is the customer saying. Why are they at 90 percent –

**Chairman Kastroll:** You have 30 seconds.

**Bill Merlin:** Thank you very much.

**Chairman Kastroll:** I appreciate it.

**Barbara Walker:** Chairman, that concludes the public speakers. Thank you.

**Chairman Kastroll:** Thank you, public speakers for taking time out of your day to address our committee. I appreciate the feedback.

**A motion was made by Chairman Kastroll and seconded by Governor Henderson to adjourn. All were in favor. Motion carried.**

[Meeting adjourned]