

# Division of Administrative Hearings

Claims Committee

November 16, 2023

Jay Adams, Chief Claims Officer



# Why are we looking to add a new alternative dispute resolution process?

- Current processes only include
  - Notice of Intent Agreed Settlements (full and final release)
  - Department of Financial Services Mediation (not binding)
  - Appraisal (binding)
- All of these processes are for covered losses only that have some type of dispute around the scope or pricing

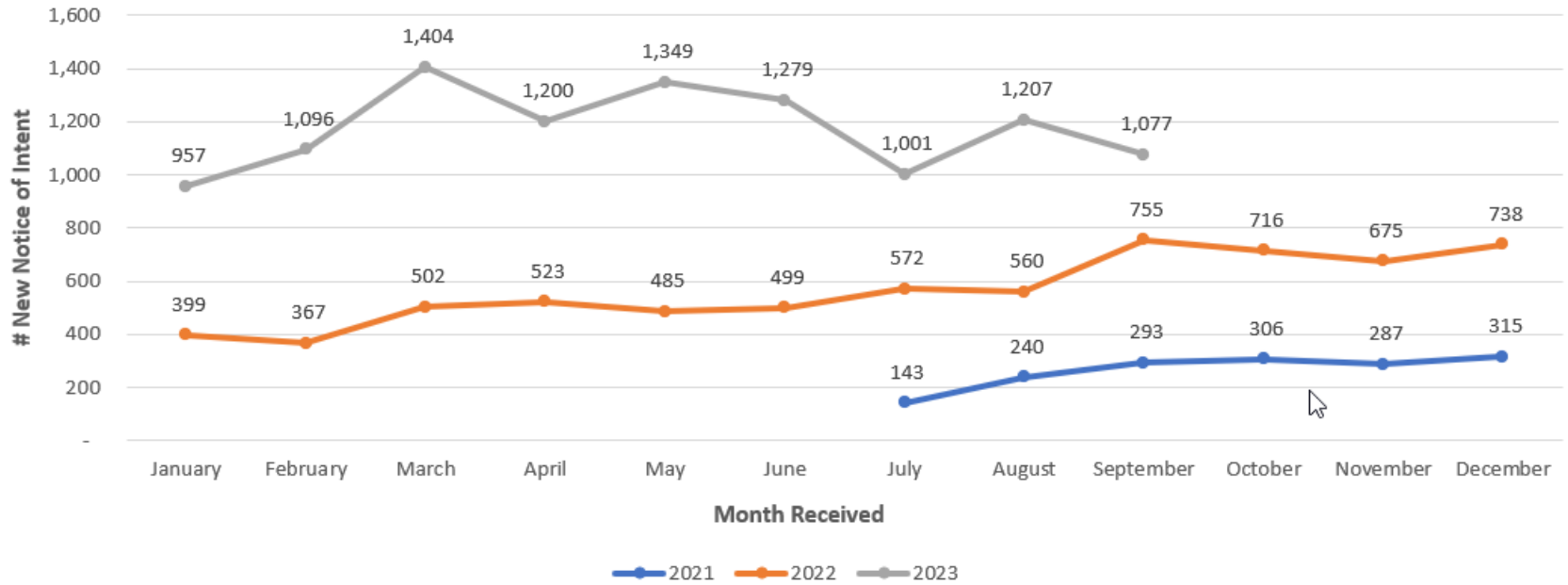
# Claims that have been denied, and upheld through the NOI process, have no resolution options without protracted litigation

- 64.4% of all NOI disputes consist of a denied claim

Dispute Type by Resolution and COL			
Resolution	Denial	Scope/Price	Total
☐ Accept Demand	8	29	37
☐ ADR	95	4092	4187
☐ Agreed on Settlement	10	187	197
☐ Blank	4	3	7
☐ Decline Demand	12396	2064	14460
☐ Extended Coverage	16	31	47
☐ In-Progress	131	88	219
<b>Total</b>	<b>12738</b>	<b>6506</b>	<b>19244</b>

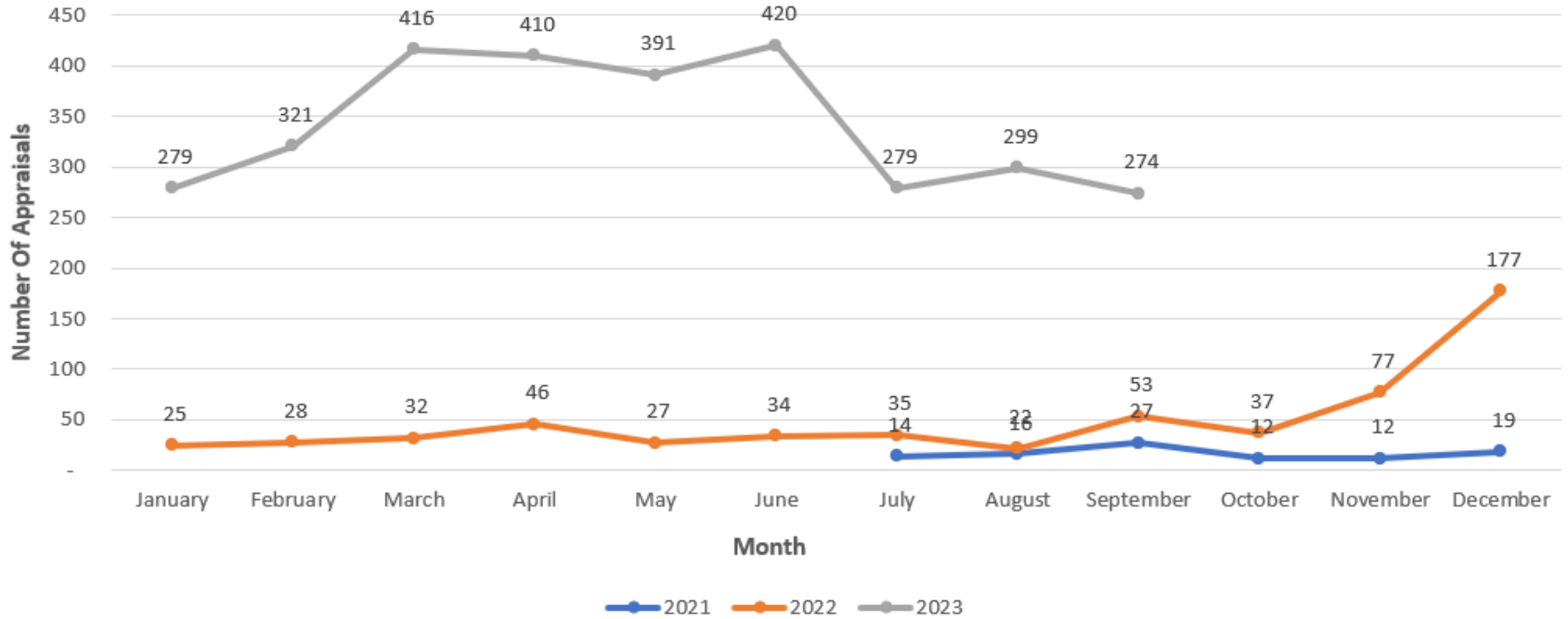
Note: Data Range 07-01-19 through 10-04-23

### Number Of New Notice Of Intent



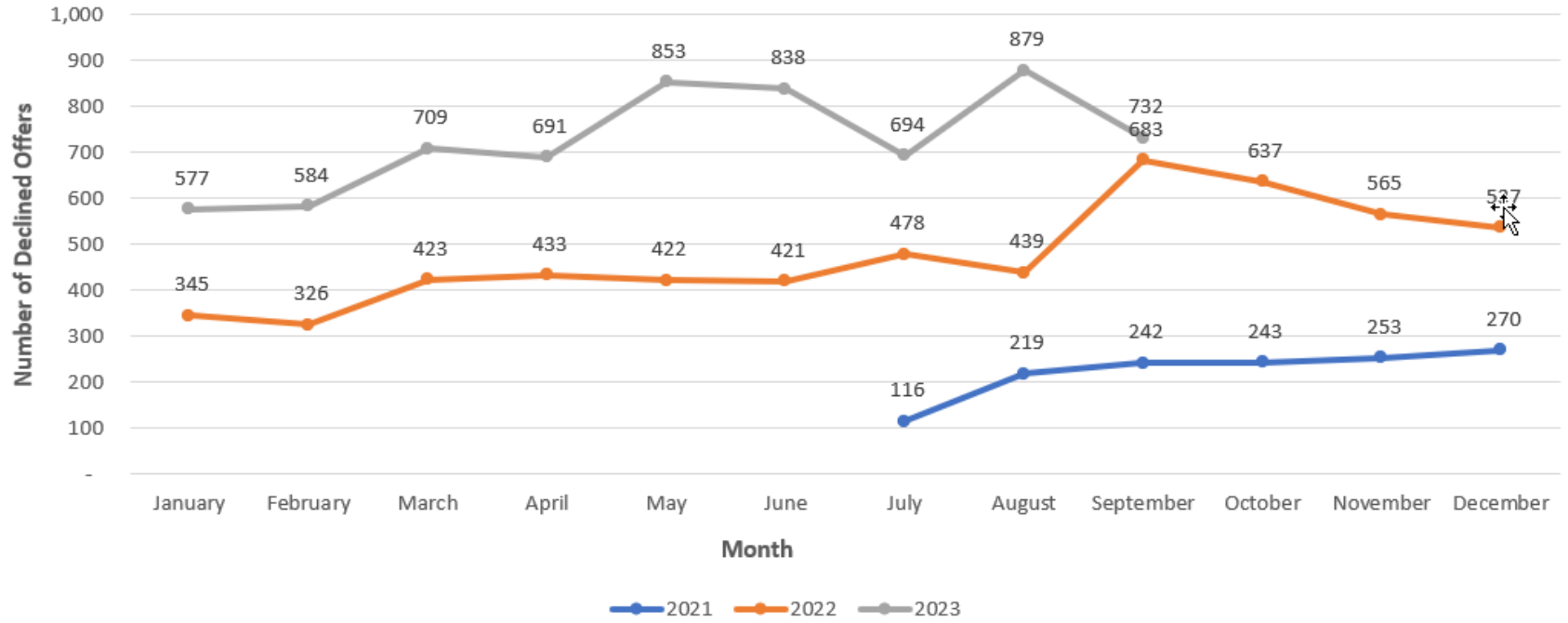
	January	February	March	April	May	June	July	August	September	October	November	December
<b>2021</b>							143	240	293	306	287	315
<b>2022</b>	399	367	502	523	485	499	572	560	755	716	675	738
<b>2023</b>	957	1,096	1,404	1,200	1,349	1,279	1,001	1,207	1,077			

### Notice Of Intent Resolved Through Appraisal



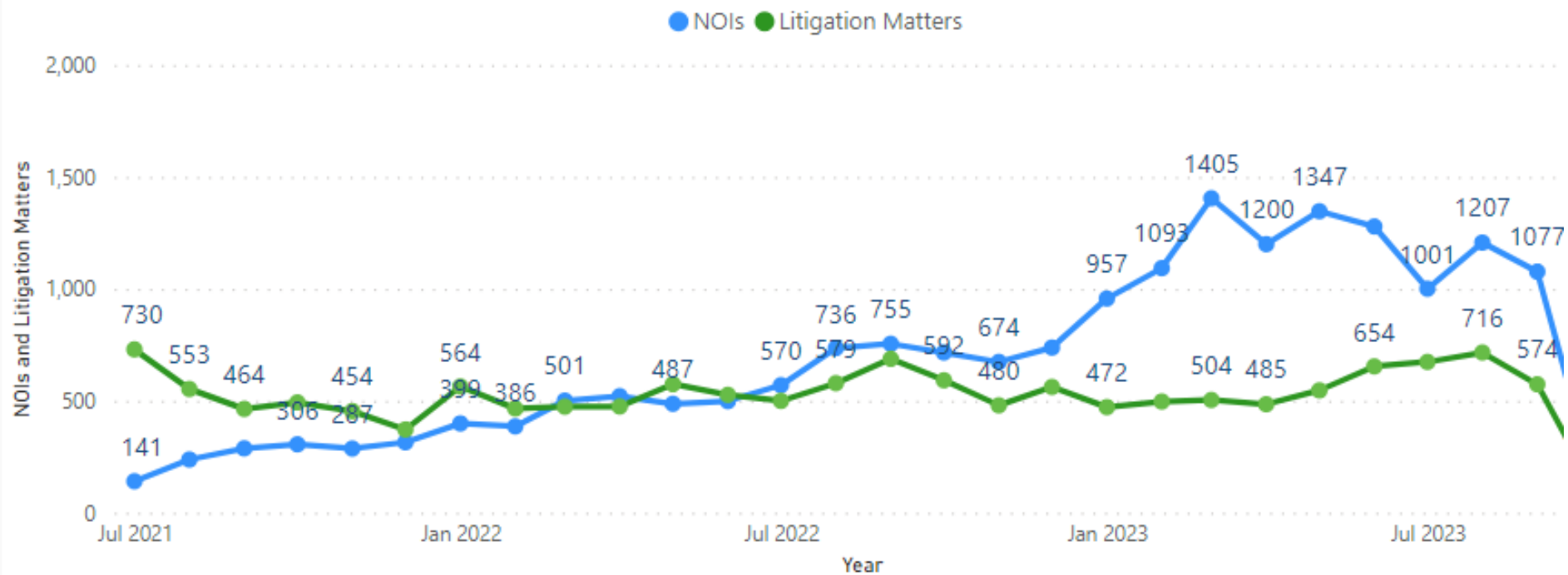
	January	February	March	April	May	June	July	August	September	October	November	December
<b>2021</b>							14	16	27	12	12	19
<b>2022</b>	25	28	32	46	27	34	35	22	53	37	77	177
<b>2023</b>	279	321	416	410	391	420	279	299	274			

### Number of Notice of Intent Decline Of Offer



	January	February	March	April	May	June	July	August	September	October	November	December
<b>2021</b>							116	219	242	243	253	270
<b>2022</b>	345	326	423	433	422	421	478	439	683	637	565	537
<b>2023</b>	577	584	709	691	853	838	694	879	732			

## Total NOIs and Litigation Matters Created



# Citizens Notice of Intent Process

- Department of Financial Services provides Notice of Intent to Citizens
- Dedicated team of Citizens staff reviews the Notice and completes a review of the claim handling
  - Stand on the prior claims decision which allows the Plaintiff to file suit
    - Denials and coverage limits
  - Negotiate with Plaintiff for resolution
  - Demand appraisal for covered losses



# Citizens Files New Endorsement

- Alternative Dispute Resolution Division of Administrative Hearings
  - A proceeding before the State of Florida, DOAH is an alternative dispute resolution by mandatory arbitration pursuant to the Revised Florida Arbitration Code, to address and resolve disagreements regarding claim determinations made by us
  - A claim determination is our decision in writing regarding the coverage for, or the scope and value of, any claim that you have presented to us
  - Binding arbitration

# How does the DOAH endorsement work?

- Insured or Citizens can demand resolution through DOAH
- The party who made the demand shall initiate the arbitration proceeding by filing and serving a request with DOAH
  - Must specify the amount of damages
  - Relevant policy provisions
  - Claim determination by Citizens

# What should we expect from DOAH?

- Determine all disputes arising out of the following
  - Determination of coverage
  - Policy exclusions and limitations
  - All defenses raised
  - Amounts of any policy benefits payable

# How long does the DOAH process take?

- Final hearing shall be held not sooner than 75 days nor later than 100 days from the initiation of the proceeding
- Timeline extensions are possible for good cause shown by a detailed written order from the Administrative Law Judge

# What happens following the DOAH hearing?

- 30 days after receipt of the hearing transcript, the Administrative Law Judge shall render an arbitration award consisting of the following:
  - Specify whether the loss or any part of the loss is covered by the policy
  - Policy provisions justifying the denial of coverage for the loss or any part of the loss
  - Amount of policy benefits payable, if any for covered portions of the loss

# What happens if there is a clerical mistake in the DOAH award?

- Administrative Law Judge can correct any clerical mistakes in the award within 25 days from its original issuance such as:
  - Miscalculation of figures, or an evident mistake in the description of any person, thing or property referred to in the award
  - Includes an award on a matter not submitted in the arbitration and the award may be corrected without affecting the merits of the decision
  - Imperfect as a matter of form, not affecting the merits of the controversy

## Does the arbitration award exclude anything?

- Arbitration award shall take into account that Florida law does not permit the following:
  - Assignment of policy benefits (AOB)
  - Any award of attorney fees to the prevailing party
  - Any award for extracontractual or consequential damages
  - Any damages based on alleged bad faith
  - Violation of Section 624.155, Florida Statutes

## Benefits of DOAH

- Provides Citizens with an additional alternative dispute resolution process to handle Notice of Intentions that are denials or cases where the limit of insurance has been paid
- Prevents protracted litigation and provides the Insured with resolution within 100 days or so
- Reduces Defense Counsel fees
- Established so that the Insured or Citizens can make the demand



## **HB 799 Codifies Citizens Right To Utilize DOAH**

- (11) In addition to any other method of alternative dispute resolution authorized by state law, the corporation may adopt policy forms that provide for the resolution of disputes regarding its claim determinations, including disputes regarding coverage for, or the scope and value of, a claim, in a proceeding before the Division of Administrative Hearings
- The administrative law judge in such proceedings shall award attorney fees and other relief pursuant to ss. 57.105 and 768.79. The corporation may not seek, and the office may not approve, a maximum hourly rate for attorney fees

# Questions