

# Claims Legal Services

Claims Committee

March 28, 2024

Jay Adams, Chief Insurance Officer



# Data Retrieval and Analysis by

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# What is the Claims Legal Services contract utilized for?

- Citizens engages outside law firms to provide representation in claims-related pre-suit and litigation matters
  - Citizens receives suits from First and Third Party claimants
  - Citizens staff attorneys act in an advisory role to the Claims department and do not appear in court on behalf of Citizens
- Panel is comprised of 112 outside defense firms, with approximately 1,000 attorneys, providing legal representation in the following areas
  - First Party Property
  - Third Party Liability
  - Subrogation
  - Appeals

# What is the history of the Claims Legal Services contract?

- December 15, 2021, Board of Governors approved initial panel contract
  - Provided \$500 million contract approval for the initial 5-year term
  - Agreed to provide spend authority in \$50 million increments as needed over the contract term
    - Required more transparency and accountability of Legal spend by Claims
    - Incremental approval documents any potential future requests for additional increases in overall contract spend

# How much spend authority has been granted by the Board against the \$500 million contract approval?

- Total of \$300 million spend approved by Board to date
  - December 15, 2021: \$50 million
  - July 13, 2022: \$50 million
  - December 22, 2022: \$50 million
  - March 29, 2023: \$50 million
  - September 27, 2023: \$50 million
  - December 6, 2023: \$50 million

# How has Citizens incurred the Legal expenses during the contract period?

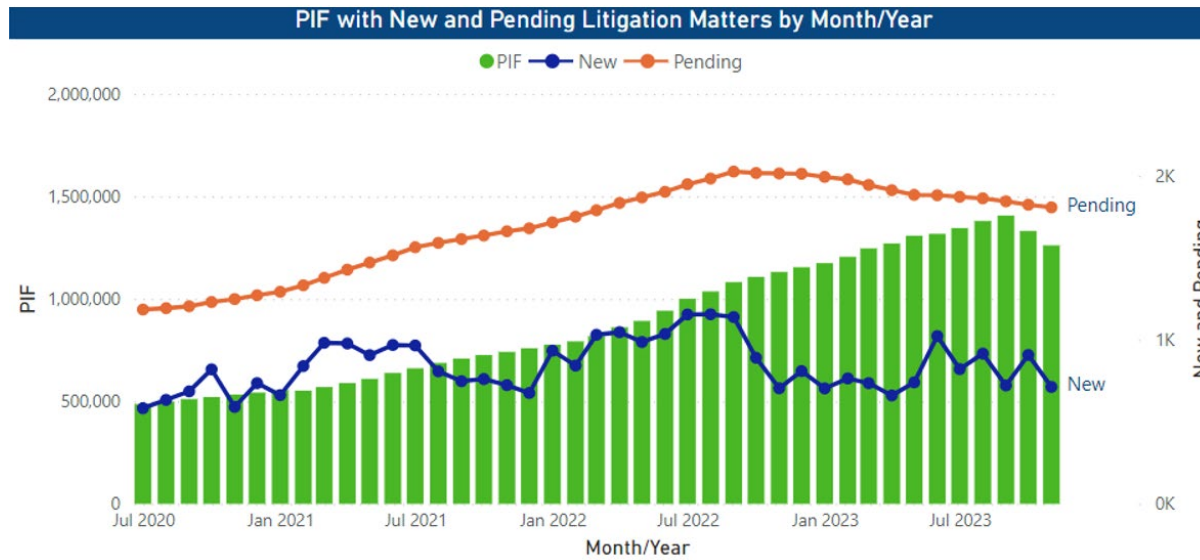
| Year   | Month | PIF       | Pending Litigation | Fees*                     |
|--|-------|-----------|--------------------|---------------------------|
| 2022   | Feb   | 792,616   | 17,725             | \$5,785,718.60            |
| 2022   | Mar   | 817,926   | 18,115             | \$6,556,057.94            |
| 2022   | Apr   | 851,066   | 18,558             | \$6,498,089.53            |
| 2022   | May   | 883,333   | 18,898             | \$6,763,133.37            |
| 2022   | June  | 931,957   | 19,236             | \$7,487,900.64            |
| 2022   | July  | 994,456   | 20,806             | \$7,331,711.52            |
| 2022   | Aug   | 1,029,829 | 20,468             | \$9,361,644.64            |
| 2022   | Sept  | 1,071,850 | 20,927             | \$9,669,797.70            |
| 2022   | Oct   | 1,111,283 | 20,833             | \$10,376,969.15           |
| 2022   | Nov   | 1,126,319 | 20,813             | \$7,617,890.07            |
| 2022   | Dec   | 1,145,811 | 20,863             | \$8,867,051.11            |
| 2023   | Jan   | 1,167,579 | 20,703             | \$13,335,467.46           |
| 2023   | Feb   | 1,193,725 | 20,555             | \$11,171,285.79           |
| 2023   | Mar   | 1,239,396 | 20,203             | \$12,957,826.09           |
| 2023   | April | 1,272,815 | 19,868             | \$13,158,730.23           |
| 2023   | May   | 1,304,332 | 19,576             | \$14,154,532.41           |
| 2023   | June  | 1,317,174 | 19,539             | \$14,221,564.99           |
| 2023   | July  | 1,348,834 | 19,484             | \$12,480,509.30           |
| 2023   | Aug   | 1,377,425 | 19,010             | \$14,758,643.99           |
| 2023   | Sep   | 1,407,805 | 18,577             | \$14,618,550.28           |
| 2023   | Oct   |           |                    | \$13,972,054.66           |
| <b>Total Spend for Current Contract</b>  |       |           |                    | <b>\$221,146,088.87**</b> |
| *Fees include firm fees and expenses only, other vendor expenses have been removed                   |       |           |                    |                           |
| **Total contract spend excludes a portion of February 2022 covered under the previous panel contacts |       |           |                    |                           |

# Why are the Legal fees increasing at such a fast pace?

- This is a multifaceted issue with many contributing factors such as
  - Pending litigation increased 25% in the first year of the contract due to the rising PIF and storm activity
  - The new increased contract rates went into effect during this period
  - Increased litigation corresponds to a sharp increase in legal billing invoices submitted
  - Created a bubble for the legal billing team with increased efforts to reduce pending invoices
  - Catastrophe matters were not included in the spend request to the Board

# What caused the pending litigation matters to increase by 25% in the first year?

- Attorneys filing more cases post pandemic
- SB 76 for Notice of Intent effective July 1, 2021
  - Some carriers took the position that it impacted all litigation as of the effective date
- Weather events





# What caused the pending litigation matters to increase by 25% in the first year?

- Weather events and the associated litigation greatly impacted the litigation pending
- Large volume of litigation originates from prior years

| Weather Events With Litigation |      |       |       |       |       |
|--------------------------------|------|-------|-------|-------|-------|
| Event                          | Year | 2020  | 2021  | 2022  | 2023  |
| Irma                           | 2017 | 3,643 | 1,949 | 1,157 | 36    |
| TS Gordon                      | 2018 | 40    | 32    | 17    | 6     |
| Michael                        | 2018 | 31    | 27    | 6     | 1     |
| Dorian                         | 2019 | 14    | 26    | 8     | 1     |
| TS Eta                         | 2020 | 1     | 2,601 | 2,540 | 495   |
| TS Isaias                      | 2020 | 8     | 44    | 12    |       |
| TS Sally                       | 2020 | 10    | 164   | 33    | 10    |
| Sally                          | 2020 | 1     | 62    | 45    | 4     |
| Hail                           | 2021 |       | 5     | 33    | 14    |
| TS Elsa                        | 2021 |       | 42    | 191   | 36    |
| TS Fred                        | 2021 |       | 5     | 47    | 5     |
| Hail                           | 2022 |       |       | 77    | 133   |
| TD One                         | 2022 |       |       | 140   | 438   |
| Ian                            | 2022 |       |       | 13    | 2,011 |
| Nicole                         | 2022 |       |       |       | 178   |
|                                |      | 3,748 | 4,957 | 4,319 | 3,368 |

Note: Weather events that generated 50 or more suits as of October 2023 YTD

# What is the impact of the contracts overlapping?

- Rates are accrued based on the date of the assignment to Defense Counsel until the matter is closed
  - Prior contracted rates apply prior to February 3, 2022
  - New contract rates apply starting February 3, 2022
    - Maximum partner rate increased 10%
    - Maximum associate rate increased 15%
- Rates vary amongst the firms based on the discounts they bid in the solicitation process
  - Rates are not tied to usage/assignment volume

# What is the impact of the contracts overlapping?

| Period | Pending Litigation | Count on Prior Rates | Count on Current Rates | % Pending on Current Rate | Amount Submitted | Amount Paid     | Firm Invoices Submitted | Firm Invoices Reviewed |
|--------|--------------------|----------------------|------------------------|---------------------------|------------------|-----------------|-------------------------|------------------------|
| Jan-22 | 17,379             | 17,379               | -                      | 0                         | \$7,418,949.36   | \$8,205,006.84  | 15,091                  | 14,833                 |
| Feb-22 | 17,725             | 16,956               | 769                    | 4%                        | \$6,914,225.72   | \$6,285,555.20  | 13,905                  | 11,468                 |
| Mar-22 | 18,115             | 16,315               | 1,800                  | 10%                       | \$9,419,888.61   | \$6,556,057.94  | 18,045                  | 13,906                 |
| Apr-22 | 18,558             | 15,712               | 2,846                  | 15%                       | \$8,578,049.32   | \$6,498,089.53  | 15,370                  | 13,650                 |
| May-22 | 18,898             | 15,083               | 3,815                  | 20%                       | \$10,216,441.08  | \$6,763,133.37  | 18,446                  | 12,975                 |
| Jun-22 | 19,236             | 14,425               | 4,811                  | 25%                       | \$10,109,243.90  | \$7,487,900.64  | 17,999                  | 14,138                 |
| Jul-22 | 19,703             | 13,789               | 5,914                  | 30%                       | \$9,668,467.67   | \$7,331,711.52  | 17,318                  | 13,820                 |
| Aug-22 | 20,053             | 13,076               | 6,977                  | 35%                       | \$10,943,330.00  | \$9,361,644.64  | 19,293                  | 16,808                 |
| Sep-22 | 20,478             | 12,464               | 8,014                  | 39%                       | \$9,683,445.14   | \$9,669,797.70  | 17,172                  | 16,459                 |
| Oct-22 | 20,390             | 11,657               | 8,733                  | 43%                       | \$11,445,744.48  | \$10,376,969.15 | 19,593                  | 19,484                 |
| Nov-22 | 20,378             | 11,089               | 9,289                  | 46%                       | \$11,818,842.64  | \$7,617,890.07  | 19,556                  | 15,417                 |
| Dec-22 | 20,379             | 10,460               | 9,919                  | 49%                       | \$11,681,591.67  | \$8,867,051.11  | 20,062                  | 14,499                 |
| Jan-23 | 20,186             | 9,811                | 10,375                 | 51%                       | \$10,505,593.62  | \$13,336,426.86 | 18,621                  | 24,298                 |
| Feb-23 | 20,047             | 9,169                | 10,878                 | 54%                       | \$10,356,581.55  | \$11,171,285.79 | 17,932                  | 19,190                 |
| Mar-23 | 19,716             | 8,462                | 11,254                 | 57%                       | \$12,771,681.57  | \$12,957,826.09 | 20,700                  | 21,407                 |
| Apr-23 | 19,420             | 7,846                | 11,574                 | 60%                       | \$11,505,553.04  | \$13,158,730.23 | 17,544                  | 26,076                 |
| May-23 | 19,141             | 7,273                | 11,868                 | 62%                       | \$12,524,663.16  | \$14,154,532.41 | 19,538                  | 18,281                 |
| Jun-23 | 19,111             | 6,697                | 12,414                 | 65%                       | \$12,758,569.73  | \$14,221,564.99 | 18,859                  | 20,390                 |
| Jul-23 | 19,028             | 6,267                | 12,761                 | 67%                       | \$11,987,589.89  | \$12,480,509.30 | 18,170                  | 18,072                 |
| Aug-23 | 18,942             | 5,816                | 13,126                 | 69%                       | \$11,874,344.72  | \$14,758,643.99 | 17,882                  | 19,513                 |
| Sep-23 | 18,755             | 5,422                | 13,333                 | 71%                       | \$14,667,065.32  | \$14,618,550.28 | 20,190                  | 22,569                 |
| Oct-23 | 18,533             | 4,994                | 13,539                 | 73%                       | \$12,996,600.27  | \$17,115,415.77 | 18,455                  | 20,399                 |

# How did reducing the pending invoices increase the overall spend?

| Period | Pending Litigation | Count on Prior Rates | Count on Current Rates | % Pending on Current Rate | Amount Submitted | Amount Paid     | Firm Invoices Submitted | Firm Invoices Reviewed |
|--------|--------------------|----------------------|------------------------|---------------------------|------------------|-----------------|-------------------------|------------------------|
| Jan-22 | 17,379             | 17,379               | -                      | 0                         | \$7,418,949.36   | \$8,205,006.84  | 15,091                  | 14,833                 |
| Feb-22 | 17,725             | 16,956               | 769                    | 4%                        | \$6,914,225.72   | \$6,285,555.20  | 13,905                  | 11,468                 |
| Mar-22 | 18,115             | 16,315               | 1,800                  | 10%                       | \$9,419,888.61   | \$6,556,057.94  | 18,045                  | 13,906                 |
| Apr-22 | 18,558             | 15,712               | 2,846                  | 15%                       | \$8,578,049.32   | \$6,498,089.53  | 15,370                  | 13,650                 |
| May-22 | 18,898             | 15,083               | 3,815                  | 20%                       | \$10,216,441.08  | \$6,763,133.37  | 18,446                  | 12,975                 |
| Jun-22 | 19,236             | 14,425               | 4,811                  | 25%                       | \$10,109,243.90  | \$7,487,900.64  | 17,999                  | 14,138                 |
| Jul-22 | 19,703             | 13,789               | 5,914                  | 30%                       | \$9,668,467.67   | \$7,331,711.52  | 17,318                  | 13,820                 |
| Aug-22 | 20,053             | 13,076               | 6,977                  | 35%                       | \$10,943,330.00  | \$9,361,644.64  | 19,293                  | 16,808                 |
| Sep-22 | 20,478             | 12,464               | 8,014                  | 39%                       | \$9,683,445.14   | \$9,669,797.70  | 17,172                  | 16,459                 |
| Oct-22 | 20,390             | 11,657               | 8,733                  | 43%                       | \$11,445,744.48  | \$10,376,969.15 | 19,593                  | 19,484                 |
| Nov-22 | 20,378             | 11,089               | 9,289                  | 46%                       | \$11,818,842.64  | \$7,617,890.07  | 19,556                  | 15,417                 |
| Dec-22 | 20,379             | 10,460               | 9,919                  | 49%                       | \$11,681,591.67  | \$8,867,051.11  | 20,062                  | 14,499                 |
| Jan-23 | 20,186             | 9,811                | 10,375                 | 51%                       | \$10,505,593.62  | \$13,336,426.86 | 18,621                  | 24,298                 |
| Feb-23 | 20,047             | 9,169                | 10,878                 | 54%                       | \$10,356,581.55  | \$11,171,285.79 | 17,932                  | 19,190                 |
| Mar-23 | 19,716             | 8,462                | 11,254                 | 57%                       | \$12,771,681.57  | \$12,957,826.09 | 20,700                  | 21,407                 |
| Apr-23 | 19,420             | 7,846                | 11,574                 | 60%                       | \$11,505,553.04  | \$13,158,730.23 | 17,544                  | 26,076                 |
| May-23 | 19,141             | 7,273                | 11,868                 | 62%                       | \$12,524,663.16  | \$14,154,532.41 | 19,538                  | 18,281                 |
| Jun-23 | 19,111             | 6,697                | 12,414                 | 65%                       | \$12,758,569.73  | \$14,221,564.99 | 18,859                  | 20,390                 |
| Jul-23 | 19,028             | 6,267                | 12,761                 | 67%                       | \$11,987,589.89  | \$12,480,509.30 | 18,170                  | 18,072                 |
| Aug-23 | 18,942             | 5,816                | 13,126                 | 69%                       | \$11,874,344.72  | \$14,758,643.99 | 17,882                  | 19,513                 |
| Sep-23 | 18,755             | 5,422                | 13,333                 | 71%                       | \$14,667,065.32  | \$14,618,550.28 | 20,190                  | 22,569                 |
| Oct-23 | 18,533             | 4,994                | 13,539                 | 73%                       | \$12,996,600.27  | \$17,115,415.77 | 18,455                  | 20,399                 |

# How did reducing the pending invoices increase the overall spend?

- Invoice volume continues to increase
  - 2021 had 195K invoices submitted
  - 2022 had 275K invoices submitted
  - 2023 had 320K invoices submitted

# What impacts are catastrophe matters having on the total budget?

| Sum of Amount      | CAT                     |                         |                         |            |
|--------------------|-------------------------|-------------------------|-------------------------|------------|
| Period             | Yes                     | No                      | Grand Total             | % CAT      |
| 202202             | \$3,160,531.88          | \$2,625,186.72          | \$5,785,718.60          | 55%        |
| 202203             | \$3,600,237.96          | \$2,955,819.98          | \$6,556,057.94          | 55%        |
| 202204             | \$3,531,889.35          | \$2,966,200.18          | \$6,498,089.53          | 54%        |
| 202205             | \$3,374,314.93          | \$3,388,818.44          | \$6,763,133.37          | 50%        |
| 202206             | \$4,231,405.23          | \$3,256,495.41          | \$7,487,900.64          | 57%        |
| 202207             | \$3,666,321.22          | \$3,665,390.30          | \$7,331,711.52          | 50%        |
| 202208             | \$5,108,417.52          | \$4,251,846.62          | \$9,360,264.14          | 55%        |
| 202209             | \$5,043,259.71          | \$4,626,478.79          | \$9,669,738.50          | 52%        |
| 202210             | \$5,621,799.34          | \$4,755,169.81          | \$10,376,969.15         | 54%        |
| 202211             | \$3,955,561.89          | \$3,662,328.18          | \$7,617,890.07          | 52%        |
| 202212             | \$4,545,893.25          | \$4,321,230.76          | \$8,867,124.01          | 51%        |
| 202301             | \$6,937,978.90          | \$6,398,447.96          | \$13,336,426.86         | 52%        |
| 202302             | \$5,688,325.69          | \$5,482,960.10          | \$11,171,285.79         | 51%        |
| 202303             | \$6,448,987.80          | \$6,508,838.29          | \$12,957,826.09         | 50%        |
| 202304             | \$6,514,844.40          | \$6,643,885.83          | \$13,158,730.23         | 50%        |
| 202305             | \$6,987,703.53          | \$7,166,828.88          | \$14,154,532.41         | 49%        |
| 202306             | \$6,765,669.31          | \$7,455,895.68          | \$14,221,564.99         | 48%        |
| 202307             | \$6,011,867.84          | \$6,468,641.46          | \$12,480,509.30         | 48%        |
| 202308             | \$7,094,458.77          | \$7,664,185.22          | \$14,758,643.99         | 48%        |
| 202309             | \$7,234,409.53          | \$7,384,140.75          | \$14,618,550.28         | 49%        |
| 202310             | \$8,472,083.70          | \$8,643,332.07          | \$17,115,415.77         | 49%        |
| 202311             | \$4,535,702.36          | \$4,385,419.19          | \$8,921,121.55          | 51%        |
| <b>Grand Total</b> | <b>\$118,531,664.11</b> | <b>\$114,677,540.62</b> | <b>\$233,209,204.73</b> | <b>51%</b> |

# What considerations are being utilized to forecast the total Legal spend over the remaining contract term?

- Factors utilized in forecasting
  - Pending litigation counts
  - New suit counts
    - Impact of recent legislative statutes
    - Impact of depopulation on policy counts
    - Impact of new DOAH process
  - Varying contract rates among firms
  - Impact of future storms

# What will impact the pending litigation counts?

- Litigation pending is slowly declining
  - 19,938 January 2023 pending
  - 18,080 November 2023 pending
- Settlement methods November 2023 YTD

| Method                  | # of Cases |
|-------------------------|------------|
| ADR                     | 833        |
| Final Summary Judgement | 297        |
| Proposal for Settlement | 356        |
| Trial                   | 73         |
| Voluntary Settlement    | 6,184      |
| Court Dismissal         | 84         |
| Voluntary Withdrawal    | 2,948      |

Note: This chart only includes litigation settlement methods with the largest number of results.



# What will impact the new suit counts?

- SB 2A will reduce the number of new suits
  - Repeal of the one-way attorney fee statute
  - Abolishment of Assignment of Benefits
- Continued depopulation efforts will reduce the Policy-In-Force counts further reducing Citizens exposure to new claims/litigation
  - Reduction of 182,000 policies through November 2023 YTD
- SB 2A codified binding Arbitration as an alternative dispute resolution methodology
  - Citizens endorses policies for DOAH process effective October 1, 2023

# What impact will the varying contract rates have?

- Each month the percentage of invoices submitted under the new rates continues to increase the total legal spend paid
- Older matters are closing under the old contracted rates which has helped to drive down the total legal spend paid
- Difficult to determine the rate impact based on old versus new rate structure for firms

| Period | Pending Litigation | Count on Prior Rates | Count on Current Rates | % Pending on Current Rate |
|--------|--------------------|----------------------|------------------------|---------------------------|
| Jan-22 | 17,379             | 17,379               | -                      | 0                         |
| Feb-22 | 17,725             | 16,956               | 769                    | 4%                        |
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| May-22 | 18,898             | 15,083               | 3,815                  | 20%                       |
| Jun-22 | 19,236             | 14,425               | 4,811                  | 25%                       |
| Jul-22 | 19,703             | 13,789               | 5,914                  | 30%                       |
| Aug-22 | 20,053             | 13,076               | 6,977                  | 35%                       |
| Sep-22 | 20,478             | 12,464               | 8,014                  | 39%                       |
| Oct-22 | 20,390             | 11,657               | 8,733                  | 43%                       |
| Nov-22 | 20,378             | 11,089               | 9,289                  | 46%                       |
| Dec-22 | 20,379             | 10,460               | 9,919                  | 49%                       |
| Jan-23 | 20,186             | 9,811                | 10,375                 | 51%                       |
| Feb-23 | 20,047             | 9,169                | 10,878                 | 54%                       |
| Mar-23 | 19,716             | 8,462                | 11,254                 | 57%                       |
| Apr-23 | 19,420             | 7,846                | 11,574                 | 60%                       |
| May-23 | 19,141             | 7,273                | 11,868                 | 62%                       |
| Jun-23 | 19,111             | 6,697                | 12,414                 | 65%                       |
| Jul-23 | 19,028             | 6,267                | 12,761                 | 67%                       |
| Aug-23 | 18,942             | 5,816                | 13,126                 | 69%                       |
| Sep-23 | 18,755             | 5,422                | 13,333                 | 71%                       |
| Oct-23 | 18,533             | 4,994                | 13,539                 | 73%                       |

# What impact will future storms have?

- Citizens does not include weather events into the Board approved contract spend
  - Hard to predict the severity/geography
  - Including these costs would grossly overstate the contract spend if no event occurred
- Past events continue to generate new litigation until the statute is reached for breach of contract
  - Anticipate that this trend will continue for future events

# What is our current projection for a budget shortfall under the Board approved spend?

- Current forecast is a shortfall between \$100 - \$200 million over the contracted 5 year term based on
  - Challenges noted above
  - New legislative initiatives
  - Citizens new DOAH process
- Incurred \$118.5 million in weather event spend, through November 2023 YTD, which was not included in the contract spend authority

# Questions