

# Florida Assignment of Benefits House Bill 7065

Barry Gilway, President/CEO and Executive Director  
Chamber Meeting



### Assignment agreements must:

- Allow the Assignor to rescind the agreement, without penalty or fee, within 14 days
- Requires the Assignee to submit the executed agreement to the insurer within 3 business days
  - Contain a written, itemized, per-unit cost estimate for services
- Require the Assignee to indemnify and hold harmless the Assignor for any financial obligation under the agreement
- If the agreement is executed under emergency circumstances
  - Cannot exceed the greater of \$3,000 or 1% of the Coverage A limit of insurance
- Non-compliance with any of these requirements make the assignment invalid and unenforceable

Assignee must prevent prejudice by:

- Maintaining records of all services
- Cooperate with the insurer
- Provide the insurer with requested documents
- Deliver the executed agreement within 3 business days
- Provide accurate and updated scope and estimates
- Perform the work according to industry standards
- May not seek payment from the Assignor greater than the policy deductible

Assignee must, as a Condition Precedent to Filing Suit:

- Submit to EUO's and recorded statements
- Participate in appraisal or other alternative dispute resolution methods if requested by the insurer
- Provided the Assignor and insurer written notice of intent to initiate litigation at least 10 business days prior to filing suit to include
  - Specify damages in dispute, amount claimed, and a pre-suit settlement demand
  - Detailed written invoice or estimate of services
    - Itemized information on equipment, materials and supplies
    - Number of labor hours
    - Proof that the work was performed according to industry standards

Insurer must respond in writing:

- Within 10 business days
- Provide a pre-suit settlement offer or requiring appraisal or other method of alternative dispute resolution

Insurer must have a procedure for the prompt investigation, review and evaluation of the dispute

- Must investigate each claim contained in the notice in accordance with Florida Insurance Code

Entitlement of fees if the difference between the judgement obtained by the assignee and the pre-suit settlement offer is:

- Less than 25% of the disputed amount, the insurer is entitled to an award of reasonable attorney fees
- Between 25% and 50% of the disputed amount, no party is entitled to an award of attorney fees
- Greater than 50% of the disputed amount, the assignee is entitled to an award of reasonable attorney fees

If the insurer fails to inspect the property or provide written or oral authorization for repairs within 7 calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees.

Insurer may make available a policy that restricts in whole or part an insured's right to execute an assignment agreement

- Must make available a policy that does not restrict post-loss assignment agreements
- Restricted policies are available at a lower cost
- Insurer shall notify the insured annually of the coverage options available for post-loss assignments agreements
- Named insured must reject a fully assignable policy in writing or electronically

### Citizens specific statute

- May not implement a rate change in 2019 for DP-3 or HO-3 policies unless the rate filing reflects projected rate savings from this act
- Provide policyholders details on the projected rate savings from this act

Notice & Inspection		
Days	Business/Calendar	Responsibility
0 – 3	Business	Assignee to provide assignment agreement to Citizens or the date work begins, whichever is earlier.
1 – 7	Calendar	Citizens must inspect the damaged property or provide oral/written approval to begin repairs from FNOL
0 – 14	Calendar	Assignor to provide written notice to the assignee to rescind the agreement
0 – 30	Calendar	Assignor to provide written notice to the assignee if the agreement does not have a commencement date and the assignee has not begun substantial work on the property

Notice of Intent to File Suit		
Days	Business/Calendar	Responsibility
0 - 10	Business	Assignee must provide Citizens with a written notice of intent to initiate litigation before filing suit under the policy, but cannot be served prior to Citizens making a coverage determination.
0– 10	Business	Citizens must respond in writing by making a presuit settlement offer or requiring the assignee to participate in appraisal from Notice of Intent.



# Carrier Litigation Experience

## LSOP Summary 2013 - 2019

	2013	2014	2015	2016	2017	2018	2019 Q3	2019 YE EST
<b>Citizens Property Insurance Company</b>								
All	9,146	9,525	7,653	10,061	7,624	13,363	7,981	10,641
AOB	860	1,062	1,250	3,242	2,718	3,631	3,312	4,416
AOB %	9%	11%	16%	32%	36%	27%	41%	41%
<b>All Other Carriers</b>								
All	18,270	22,122	30,167	31,790	41,524	69,300	57,244	76,000
AOB	4,613	4,820	6,645	5,968	9,772	17,421	20,325	27,100
AOB %	25%	22%	22%	19%	24%	25%	36%	36%
<b>Total All</b>	<b>27,416</b>	<b>31,647</b>	<b>37,820</b>	<b>41,851</b>	<b>49,148</b>	<b>82,663</b>	<b>65,225</b>	<b>86,641</b>
<b>Total AOB</b>	<b>5,473</b>	<b>5,882</b>	<b>7,895</b>	<b>9,210</b>	<b>12,490</b>	<b>21,052</b>	<b>23,637</b>	<b>31,516</b>
<b>Total AOB %</b>	<b>20%</b>	<b>19%</b>	<b>21%</b>	<b>22%</b>	<b>25%</b>	<b>25%</b>	<b>36%</b>	<b>36%</b>

Data source – DFS LSOP 2013-2019 Q3

Citizens is declining YOY  
Industry is increasing YOY



# Citizens Business Impacts Associated With HB 7065

## Develop a consistent interpretation of the Bill

- Required content of the assignment agreement for enforceability
- Excluded content of the assignment agreement for enforceability
- Contents of Notice of Intent to Initiate Litigation

## Develop training and materials

- Claims Litigation, Defense Counsel and AOB team training materials
- Claims Litigation and Claims Legal AOB training
- AOB team training
- Defense Counsel training
- Development of Forms and Templates for litigation filed

- Lines 237 – 241 of HB 7065

*“An insurer must have a procedure for the prompt investigation, review and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code.”*

## Dedicated AOB team created for compliance

- Mandated with the following responsibilities to determine:
  - If the agreement is valid and enforceable
  - If the Assignee has met their duties
  - If the Conditions Precedent to Suit have been met
  - If the Assignor has met their responsibilities to be eligible to be included on the proceeds
  - If the Assignor is in good standing to file a Notice of Intent to File Suit

## AOB team duties for timeline compliance

- Inspect the property within 7 calendar days after the first notice of loss or provide written or oral authorization for repairs
  - Failure to comply waives the right to entitlement of attorney fees
- Respond in writing within 10 business days by making a pre-suit settlement offer or demanding appraisal

## AOB team workflow design

- Process for routing new AOB's & Notice of Intent to File Suit
  - Mailroom
  - Scan/Fax
  - Email
  - Website
- Process for determining validity of AOB agreement
- Process for determining what constitutes an “*urgent or emergency circumstance*” as defined in the Bill
- Process for documenting that authorization for repairs were granted within 7 calendar days to remain eligible for Entitlement of Fees
- Process for determining if the Assignee has met the conditions precedent prior to filing suit
- Process for responding to a new Notice of Intent to File Suit
  - Demand Appraisal
  - Presuit Settlement Offer

## AOB team workflow design

- Process for validating the judgement obtained as compared to the Pre-suit Settlement Offer to determine the Entitlement of Fees
- Deductible management changes to support multiple file ownership
- Parties involved changes to ensure appropriate parties are added to the check correctly
- Development of multiple claims correspondence letters for Bill compliance per section
- Development of time sensitive Claims Management System notices for Bill compliance
- Best Practices changes to include the AOB procedures

## Program Management and Process Support

- Develop structure around teams performing work
- Facilitate management of program scope
- Support cross-team communication dependencies
- Facilitate Steering meetings to ensure overall agreement of strategy and approval of documents and policies
- Ensure governance compliance to Enterprise processes for documentation and program communications and reporting
- Documentation of end-to-end process and key performance indicators

## Intake channels

- New online form (straight through processing)
- Enhancement of electronic and physical mail intake

## Claims Management System enhancements needed by July 1, 2019

- Intake system enhancements
  - Identification of AOB
  - Identification of Notice of Intent to File Suit
  - Flagging and routing to AOB team
- Development of AOB summary tab
  - Adjuster data collection for management of the AOB or multiple AOB's
  - Statutory data collection for future reporting
- Development of correspondence
- Creation of AOB email address with routing to the intake system
- Enhancements to the adjuster payment processing system for appropriate tracking of AOB payments

## Claims Management System enhancements needed by late July, 2019

- Correspondence loaded to the document production system
- Enhancements to automate triggers to generate correspondence
- Development of an AOB dashboard to facilitate the leadership of the dedicated AOB team

- Lines 286 – 294 of HB 7065

*“The Office shall require each insurer to report by January 30, 2022, and each year thereafter data on each residential and commercial property insurance claim paid in the prior calendar year under an assignment agreement. The Financial Services Commission shall adopt by rule a list of the data required, which must include specific data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or non litigated and by loss adjustment expenses.”*

## Statutory reporting compliance development needs

- Time stamps
- AOB details for audit history
- Vendor details
- Financial details
- Incoming mail details

Data Warehouse modifications to support Actuarial and Corporate Analytics needs

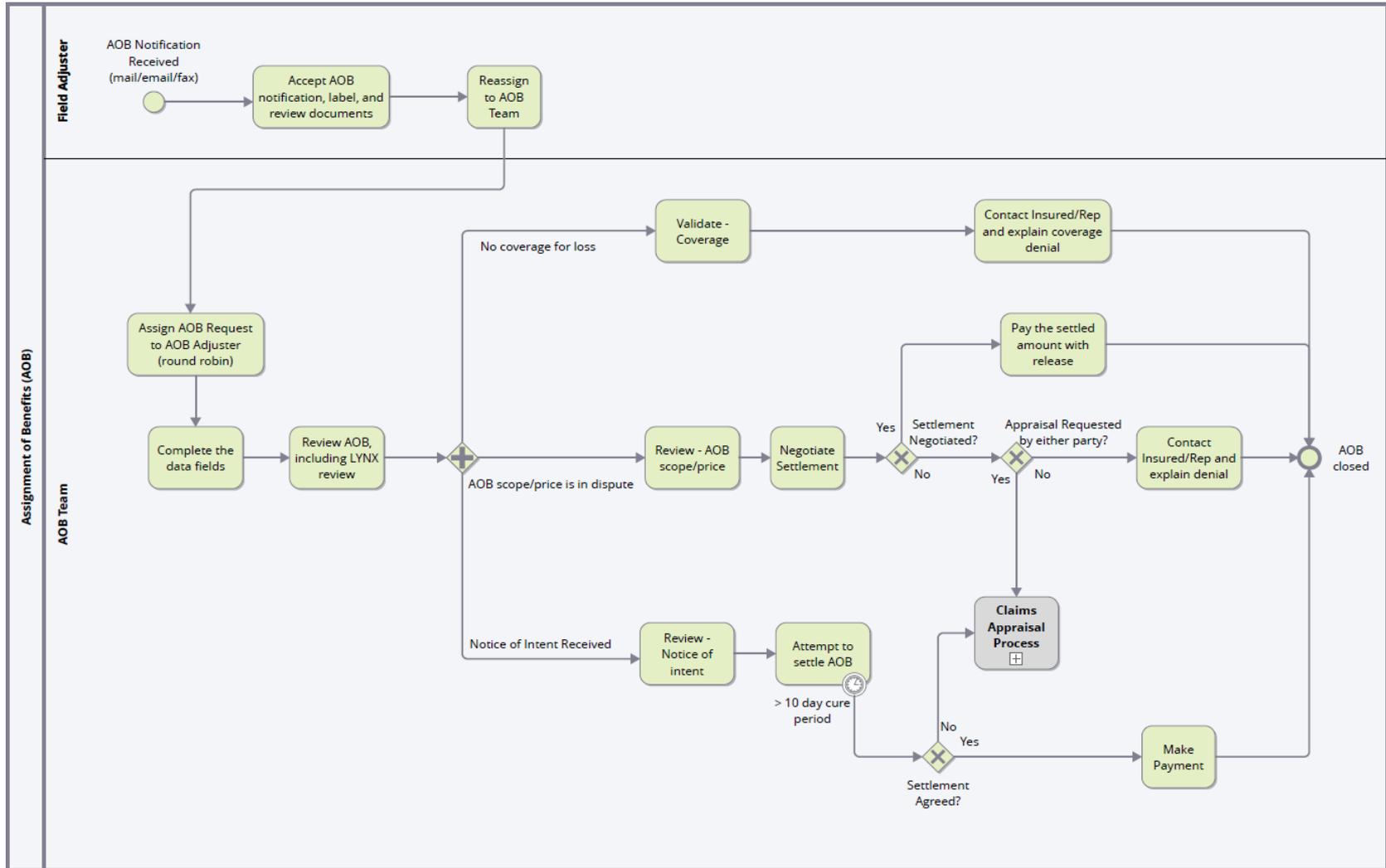
Enterprise Performance Metrics dashboard to track program results

Rate and Product related system changes

Citizens Communications will produce and deliver the following communications prior to July 1, 2019

- Brief explanation of HB 7065 with details on how to submit the AOB agreement to all policyholders
  - Snail mail hard copy
  - Emails
  - Social Media
  - Citizens website
- Brief explanation of HB 7065 with details on how to submit the AOB agreement to all known Vendors
  - All W9's on file
  - Mitigation Associations

# AOB Workflow



# AOB Dashboard - Overview

## AOB Metrics Executive Dashboard

Last Updated  
Tuesday, October 15, 2019

AOB Matters Created

1,718

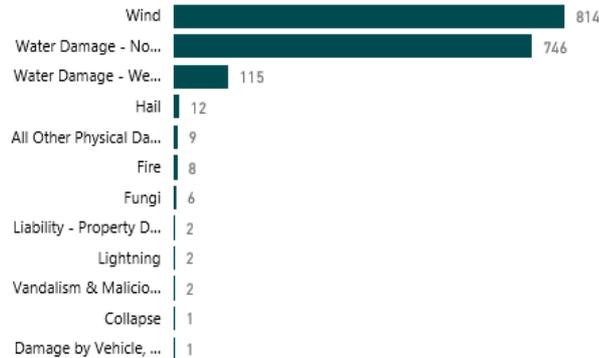
AOB Invoice Amount

\$14.11M

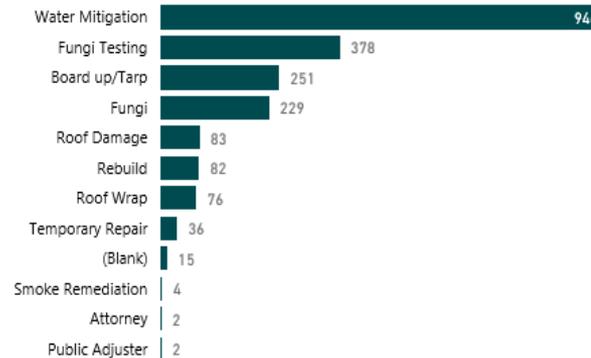
AOB Matters Created

- Pre-July 1st  
876
- Compliant  
451
- Non-Compliant  
334
- Still In Review  
37
- Pre-Suit (NOI Still In Review)  
19
- Rescinded  
1

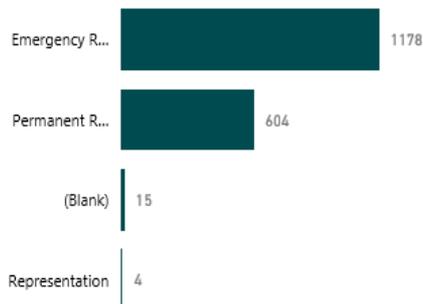
### Cause of Loss



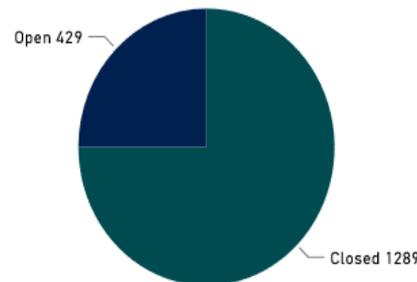
### Type of Work



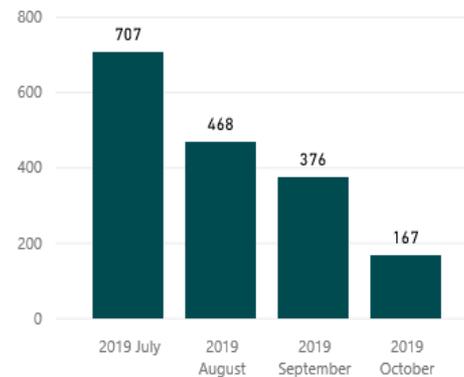
### Scope of Work



### AOB Matters by Status



### AOB Matters by Month



AOB Matter State

All

CAT Name

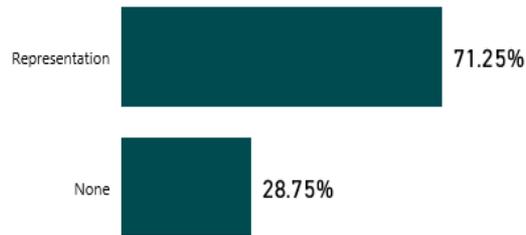
All

AOB Matter Create Date

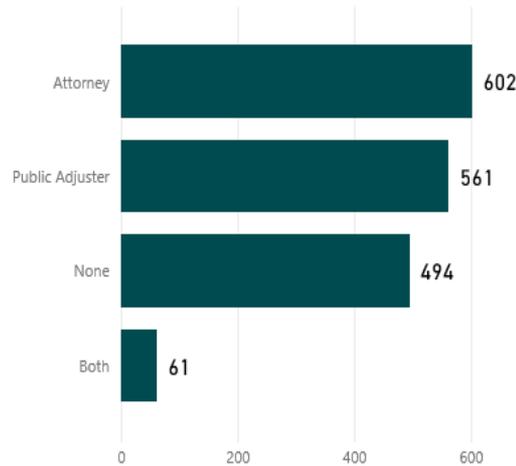
7/1/2019 10/15/2019

## Representation and Vendor Metrics

### % of Matters with Representation



### Representation Type



### Attorney

35.04%

### Public Adjuster

32.65%

### None

28.75%

### Both

3.55%

### AOB Matter State

All

### CAT Name

All

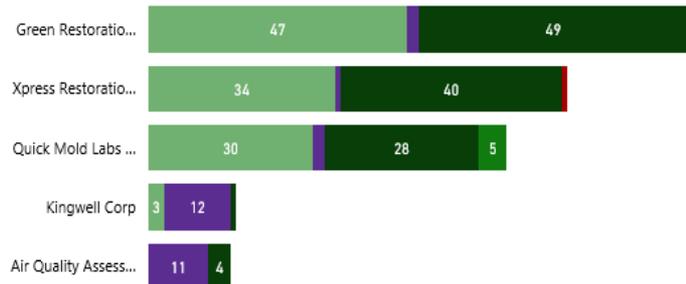
### Create Date

7/1/2019 10/15/2019



### Top 5 Vendors

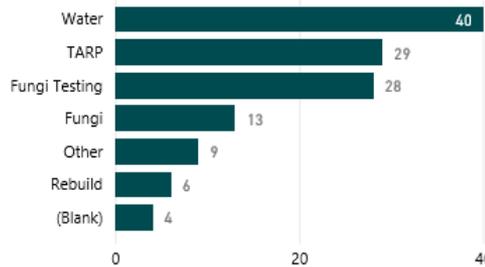
AOB Matter State ● Compliant ● Non-Compliant ● Pre-July 1st ● Pre-Suit (NO) Still In R... ● Still In Review



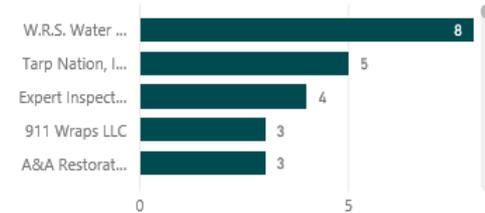
Vendor Name	AOB_MATTER_ID	ClaimID	AOB Matter State	AOB_STATUS	AOBAmount	DateExecuted
YAG Restoration Inc.	3874	1353733	Pre-July 1st	Closed	\$0.00	Wednesday, January 9, 2019
Xpress Water Restoration	4017	1257924	Pre-July 1st	Closed	\$4,883.92	Tuesday, April 23, 2019
Xpress Water Restoration	4244	1367821	Non-Compliant	Closed	\$0.00	Monday, August 12, 2019
Xpress Water Restoration	6233	1365145	Non-Compliant	Open	\$13,728.60	Monday, September 30, 2019
Xpress Water Restoration	6303	1381295	Compliant	Open	\$3,757.83	Monday, September 16, 2019
Xpress Restoration Inc	33	1373153	Compliant	Closed	\$10,651.33	Saturday, July 6, 2019
Xpress Restoration Inc	423	1277507	Still In Review	Open	\$1,650.00	Saturday, July 6, 2019
Xpress Restoration Inc	828	1373152	Compliant	Closed	\$19,516.00	Friday, July 5, 2019
Xpress Restoration Inc	908	1368027	Pre-July 1st	Closed	\$6,034.88	Thursday, June 6, 2019
Xpress Restoration Inc	909	1368305	Pre-July 1st	Closed	\$0.00	Sunday, June 9, 2019
Xpress Restoration Inc	911	1367414	Pre-July 1st	Closed	\$6,875.70	Monday, May 20, 2019
<b>Total</b>					<b>\$14,107,882.98</b>	

## AOB Appraisal Metrics

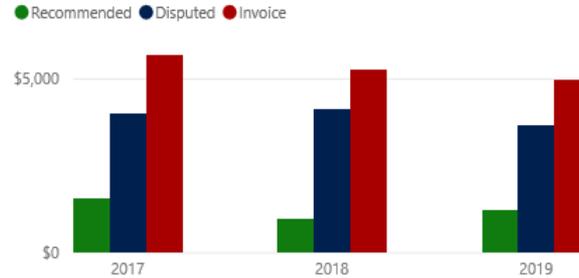
Count of Appraisals by Type



Count of Appraisals by Vendor



Average Recommended vs Disputed vs Invoice Amount



Disputed Matters by Reason



AOB Matter State

All

CAT Name

All

Appraisal Created Date

7/6/2018 10/15/2019



Average Resolution Amount

**Water**

\$3,229.78

**TARP**

\$2,977.39

**Rebuild**

\$18,022.28

**Other**

\$5,000.00

**Fungi Testing**

\$1,427.93

**Fungi**

\$3,473.19

Average Dispute Amount

**Water Mitigation/Tempor...**

\$11,195.80

**Denial or Partial Denial**

\$5,631.32

**Coverage**

\$4,283.62

AOBCompany	ClaimNumber	AOBMatterID	AppraisalType	AppraisalTypeTotal	PlaintiffAttorney	PublicAdjuster	InvoiceAmount	DisputedAmount	DisputeReason	Resolution
Xpress Water Restoration	001-00-144420	4017	TARP	\$3,700.00			\$4,883.92	\$1,183.92	Pricing/Quality/Scope	Release
Xpress Water Restoration	001-00-217261	6303	TARP				\$3,804.03			
Xpress Restoration Inc	001-00-158226	423	Fungi	\$6,000.00		Enrique Calixto	\$8,901.30	\$4,808.13	Coverage	Release
Xpress Restoration Inc	001-00-155982	1351	Water	\$0.00	Marin, Eljaiek, Lopez & Martinez, P.L.		\$6,811.32	\$6,811.32	Pricing/Quality/Scope	Coverage Exclusion/Denial
Xpress Restoration Inc	001-00-206012	1601	Water	\$5,817.53			\$7,103.87	\$5,786.34		Release
W.R.S. Water Restoration Solutions	001-00-211746	7	Water	\$3,000.00	Marin, Eljaiek, Lopez & Martinez, P.L.		\$4,472.21	\$3,150.25	Pricing/Quality/Scope	Not Eligible
W.R.S. Water Restoration Solutions	001-00-211749	207	Water		Marin, Eljaiek, Lopez & Martinez, P.L.		\$4,436.71	\$3,246.40	Denial or Partial Denial	Coverage Exclusion/Denial
<b>Total</b>				<b>\$346,540.82</b>			<b>\$631,324.43</b>	<b>\$414,712.05</b>		



# AOB Dashboard – Notice of Intent

## NOI Matters

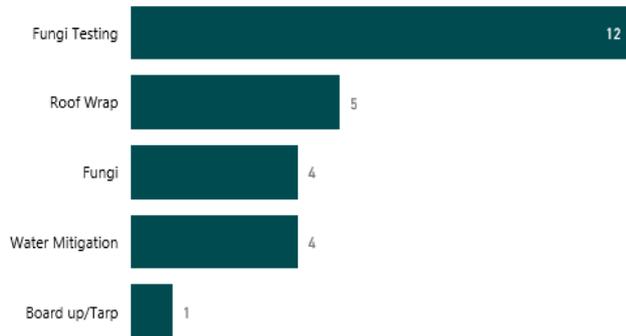
AOB Invoice Amount

**\$95.48K**

AOB Matters with NOI

**22**

Type of Work



Create Date

7/11/2019 9/25/2019



How NOI Received

**Regular Mail**

1  
# of AOB Matters

**Email**

21  
# of AOB Matters

NOI Status

- Select all
- (Blank)
- Compliant
- Non-Compliant

TypeOfWork

All

CAT Name

All

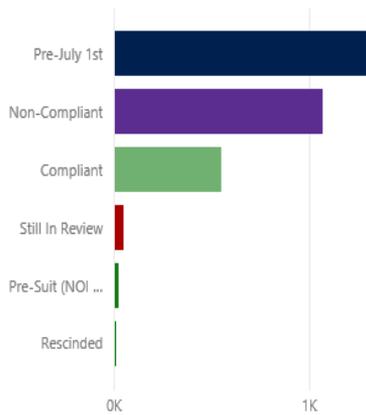
Cause\_of\_Loss

All

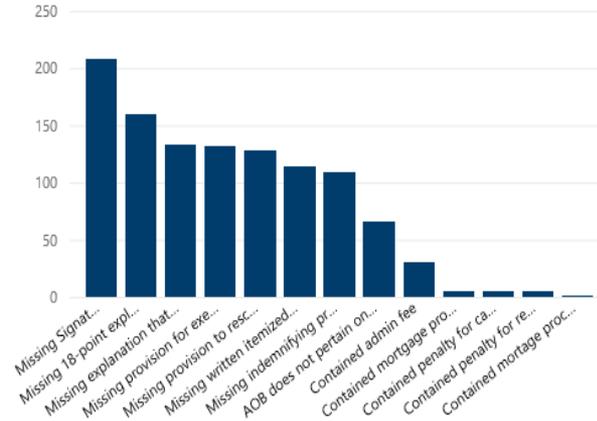
AOB_MATTER_ID	CLAIMNUMBER	NOIStatus	AOB_STATUS	Create Date
5402	001-00-212750	Compliant	Closed	Thursday, September 19, 2019
5115	001-00-212456	Compliant	Closed	Wednesday, September 18, 2019
5105	001-00-210722	Compliant	Closed	Wednesday, September 18, 2019
4622	001-00-202768		Open	Wednesday, September 25, 2019
4526	001-00-214988	Compliant	Closed	Monday, August 26, 2019
4519	001-00-210972	Compliant	Closed	Tuesday, August 20, 2019
4507	001-00-213584	Non-Compliant	Closed	Tuesday, August 13, 2019
4454	001-00-212750	Compliant	Closed	Thursday, September 12, 2019
4436	001-00-211930	Compliant	Closed	Wednesday, September 4, 2019
4369	001-00-211768	Compliant	Closed	Monday, September 9, 2019

# AOB Dashboard – Other Counts

Matter States



Reasons for Non Compliance



Received Method



Count of AOB Matters



AOB_MATTER_ID	Year	Month	RepresentationExtClaim	ASSIGNMENT_STATUS	AOB Matter State	AOBAmount	TypeOfWork	RECEIVEDMETHOD
1	2019	July	Public Adjuster	Unassigned	Pre-July 1st	\$0.00	Fungi	Email
2	2019	July	Attorney	Unassigned	Pre-July 1st	\$0.00	Board up/Tarp	Email
3	2019	July	None	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
4	2019	July	Attorney	Unassigned	Pre-July 1st	\$0.00	Fungi	Email
5	2019	July	None	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
6	2019	July	Attorney	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
7	2019	July	Public Adjuster	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
8	2019	July	Attorney	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
9	2019	July	Public Adjuster	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
10	2019	July	None	Unassigned	Pre-July 1st	\$0.00	Rebuild	Email
11	2019	July	Attorney	Unassigned	Pre-July 1st	\$0.00	Water Mitigation	Email
12	2019	July	Public Adjuster	Unassigned	Pre-July 1st	\$0.00	Fungi/Tarping	Email
<b>Total</b>						<b>\$14,107,882.98</b>		

Create Date

7/1/2019 10/15/2019



TypeOfWork

All

CAT Name

All

Cause\_of\_Loss

All

# Questions