

*Actuarial Implications of Texas Tort Reform*

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## **Abstract**

Tort reforms are generally difficult to evaluate because historical claim loss data are rarely available in a format to facilitate analysis and because the tort reform itself may change plaintiff's behavior in a way that renders historical data unrepresentative of the future. In this paper we describe our attempt to calculate the effects of tort reform in Texas using a combination of claims data, focus group information and judgment.

## **Background**

In early 1995, a series of legislation was passed in Texas which reformed the civil justice system in ways intended to reduce the cost of litigation and the size of judgments. The key pieces of legislation pertained to punitive damages, joint and several liability, venue, frivolous lawsuits, the Deceptive Trade Practices Act and medical malpractice.

Subsequent to the passage of this series of tort reforms, the Texas Legislature passed House Bill 1988 in May 1995. H.B.1988 required the Insurance Commissioner to hold a hearing and, based on the evidence presented at the hearing, mandate by October 1, 1995 appropriate rate reductions for each line of insurance effected by the tort reforms. The rate reductions mandated by the Commissioner were to be effective for all new and renewal policies on January 1, 1996. The Commissioner was further required to annually review the rate reductions and make any appropriate changes to the reductions. If the Commissioner failed to order rate reductions by October, 1995, certain default reductions as set forth in H.B. 1988 were to be automatically applied. The default reductions are presented in Exhibit 1.

The Commissioner did hold a hearing and received evidence on the anticipated impact of the tort reforms in July, 1995. As a result of that hearing, the Commissioner ordered the rate reductions presented in Exhibit 1 be implemented effective January 1, 1996. The Commissioner has annually reviewed the ordered rate reductions and to date has made no modifications to his original order. It does now appear that the rate reductions may be increased in 1998 as a result of the 1997 hearing, but that decision was not published as of this writing.

## **Summary of Tort Reforms**

Senate Bill 25 limited the amount of punitive damages to the greater of \$200,000 or twice the amount of economic damages plus non-economic damages not to exceed \$750,000. The standard for awarding punitive damages was raised from gross negligence to malice. Malice was defined to mean a specific intent to cause substantial injury or an act which involved extreme risk

of which the defendant was aware, but nevertheless proceeded. This reform took effect on causes of action that occurred on or after September 1, 1995.

Senate Bill 28, effective on causes of action on or after September 1, 1995, revised the law so that a defendant would be held jointly and severally liable for damages caused by others only if the defendant was more than 50% liable. Previously a defendant could be held jointly and severally liable for damages caused by others even if the defendant was at least 11% liable. This revision meant that no more than one liable party could be held jointly and severally liable. Senate Bill 28 included an exception for toxic tort cases in which the joint and several threshold was set at 15%, rather than 50%. Previously the law provided no threshold for toxic tort cases.

Senate Bill 28 also allowed the extent of a person's liability to be included in the evidence to the jury. Previously, a person that was only 60% liable could be held 100% liable by a jury that was never told about the defendant's degree of liability. The revised law created the possibility that the jury might reduce the award to reflect the 60% liability factor. The downside to this reform was the threat from plaintiffs' lawyers that they would now sue all liable parties to an accident to ensure that 100% of the damages were recovered, thereby increasing defense costs.

Senate Bill 32 required a plaintiff to bring suit only in the county in which all, or a substantial part, of the insured event occurred, or in the county of the defendant's residence, or in the county of the defendant's principal office. Only if none of the previous conditions applied, could the suit be brought in the plaintiff's county of residence. Previously, suits could be initiated in any county in which there was some nexus to the insured event. Examples of abuse were the initiation of lawsuits against an insurer in any county in which the insurer had an agent, or the initiation of a lawsuit for a plaintiff in the proper county, but then joining of multiple plaintiffs from throughout Texas or countrywide. A person will no longer be able to join as a plaintiff unless the venue is proper as to that specific plaintiff. The intent of the new venue rules was to curb shopping for forums which had a reputation for large injury awards. This act took effect on

suits brought under the Federal Employers' Liability Act and the Jones Act on January 1, 1996 and on all other suits commenced on or after September 1, 1995.

Senate Bill 31 was patterned after Federal Rule 11 and attempted to restrict frivolous pleadings and motions in a lawsuit. A frivolous lawsuit is defined as one in which there is no evidentiary support or legal basis for the pleading or is filed for an improper purpose (i.e. harassment). Suits involving frivolous pleadings and motions can and will still be litigated. There will supposedly now be an avenue to complain to the court, and the court may apply sanctions against the offending attorney or plaintiff. But Senate Bill 31 will not in itself eliminate a frivolous suit from the system. This act was effective on suits commenced on or after September 1, 1995.

The Deceptive Trade Practices Act (DTPA) generally reformed the conditions for awarding damages when a consumer is harmed by deceptive practices. The new law requires a showing that the consumer relied on the misleading or deceptive practices before damages can be awarded. There is a potential for a DTPA award against the insurer, but if there were such an award, it would not ordinarily be included in the ratemaking process, because it would not be expected to recur in the future.

House Bill 971, effective 9/1/94, was intended to discourage frivolous medical malpractice claims and reduce the number of defendants in each suit. This law provided new deadlines for filing expert reports and attempted to eliminate "junk science" by setting certain standards for expert medical testimony.

### Data

The primary sources of data underlying the actuarial costing of the tort reforms were the Texas Liability Insurance Closed Claim Annual Report and a series of special data calls designed by the Texas Department of Insurance (TDI).

In accordance with its statutory mandate, the TDI annually collects information concerning closed bodily injury claims relating to the following categories of insurance: general liability, medical professional liability, other professional liability, commercial auto liability and the liability portion of commercial multi-peril. These closed claim data are regularly published in the Annual Report. Throughout this paper this report is referred to as the “regular closed claim survey.”

Because the regular closed claim survey neither covered all lines of insurance nor contained all the information needed to cost all the tort reforms, it was necessary for the TDI to issue a series of special data calls. One such call, attached as Appendix A, applied to the following lines of insurance: private passenger auto, homeowners, farmowners, personal umbrella, general liability, other professional liability, commercial auto garage, commercial multi-peril and product liability. Throughout this paper, this special call for data is referred to as the “special closed claim survey.”

There was also a special call for employers’ liability claim data addressed to workers’ compensation insurers (Appendix B) and a special call for information pertaining to deceptive trade practices and venue data (Appendix C).

In addition to the data call information, the following data were also relied upon in costing the tort reforms.

- Size of loss data for products liability prepared by the Insurance Services Office and released by the TDI.
- Annual Statement Page 14 data compiled by the TDI.
- Cause of loss data for homeowners, farmowners and tenants provided by the TDI.
- Information concerning the anticipated changes in lawsuit procedures gathered from a focus group discussion with Texas attorneys.

## Costing

### Punitive Damages

The actuarial impact of Senate Bill 25 was calculated by individually analyzing each claim in the TDI's regular and special closed claim surveys so as to determine the amount of punitive damages. These amounts were individually capped to the greater of \$200,000 or twice the amount of economic loss plus the non-economic loss (with the non-economic loss limited to \$750,000). The difference between the capped amount of punitive damages and the actual punitive damages represented the estimated savings arising from the new cap (see Line 1, Exhibit 2).

The savings due to the elimination of the gross negligence standard and the introduction of the malice standard were judged to be approximately 25% of the capped punitive damage amount. The 25% reduction factor, shown on Line 4 of Exhibit 2, was based on information gathered at the focus group discussion with Texas attorneys.

The claims data in the TDI's closed claim survey included the total claim costs, only a portion of which was below policy limits and insured. Since the purpose of the actuarial calculations was to determine the savings to the insurance system, it was necessary to divide the claims data into the primary insured portion of the claim and the excess portion. The total savings for each claim was first applied to the amount of the claim in excess of insurance and then any remaining savings was applied to the insured portion of the claim. For example, assume a \$1 million claim settlement of which \$800,000 was insured by the primary carrier. If the punitive damage savings was 10%, the capped claim would have been \$900,000. In this case, there would have been no savings to the primary insurance system and no impact on the primary insurance rate. The claim amounts in excess of policy limits are shown on Line 6 of Exhibit 2.

The savings arising from Senate Bill 25 were calculated separately for each line of insurance. The calculations for private passenger auto and general liability are presented in Exhibit 2 as illustrations of the calculations performed for each line of insurance.

#### Joint and Several Liability

The impact of Senate Bill 28 was determined using two different analysis techniques. For those lines of insurance included in the regular closed claim survey, each claim in the survey affected by the joint and several rules was individually analyzed for possible savings. If the plaintiff was more than 50% at-fault, then it was assumed that none of the insured defendants would be jointly and severally responsible and the entire settlement would be saved.

The savings estimates were calculated so as to reflect the fact that some settlements will exceed insurance policy limits. In those cases, the savings to losses in excess of policy limits will have no effect on the insurance rates.

In cases involving multiple defendants, the new joint and several rules reduced the financial liability of one of the insured defendants while causing an increase in the financial liability of another insured defendant. Due to these "dissavings", a 25% reduction factor was judgmentally applied to the otherwise calculated savings (see Line 23 of Exhibit 3).

The calculations for general liability and commercial auto are presented in Exhibit 3 as illustrations of this first analysis technique.

For those lines of insurance included in the special closed claim survey, a different analysis approach was followed because of data credibility concerns. When the data in the special call were stratified by claim size, the data in each cell lacked sufficient credibility for reliable analysis. For the lines of insurance in the special call, the estimated savings provided by the respondees (see Question 4K of Appendix A) to the special call were utilized without further adjustment. These estimated savings by the respondees were on a combined basis for the joint



and several, venue, deceptive trade practices and frivolous suit reforms. Examples of the calculations are shown in Exhibit 4 for the homeowners and products liability lines of insurance.

### Venue

The actuarial analysis was based on claims data from the regular closed claim survey for the product liability and the environmental liability lines of insurance. Data from the TDI's special venue data call (see Appendix C) were the basis for the analysis of the general liability, commercial auto, commercial multi-peril, medical professional and other professional lines of insurance.

The first step in the analysis was to divide the claims information for each county between those events which occurred inside the county and those which occurred outside the county.

For products liability and environmental liability, the number of expected "venue" claims for each county was determined as a function of the ratio of claims from outside the county to the total number of claims for the county. If the "outside" claim ratio for the county exceeded 110% of the statewide average "outside" claim ratio, the excess number of claims for the county were considered to be "venue" claims. As an example of this calculation, consider the products liability calculation for Travis County. From Exhibit 5, page 2, one can determine that 35% (7 of 20) of the Travis County products liability claims arose from outside the county. The statewide average "outside" claim ratio was only 16% (127 of 794). The Travis County ratio exceeded 110% of the statewide average ratio by 17.4% ( $.35 - .16 \times 1.1$ ). The excess number of "outside" claims ( $.174 \times 20 = 3.48$  claims) is shown on page 3 of Exhibit 5. To account for losses in excess of policy limits, the number of excess claims were then judgmentally reduced by 25% to determine the number of claims for Travis County which were expected to be effected by the venue reforms. The estimated dollar savings were then calculated by multiplying the number of "venue" claims by the dollar difference between the average settlements outside the county and the statewide average settlements inside the county.

The basis for the savings estimates for general liability, commercial auto liability, commercial multi-peril and professional liability, were the responses to the special venue data call (see Question 2d, Appendix C). An example of the calculations using the special venue data call is shown for general liability in Exhibit 5, page 1.

For those lines of insurance not covered by the special venue data call, the estimated savings provided by the respondents to the special closed claim survey were utilized as presented in Exhibit 4. Again, these savings were estimated by the respondents on a combined basis for the joint and several, venue, deceptive trade practices and frivolous suit reforms.

#### Frivolous Pleadings and Motions

The TDI's regular closed claim survey did not include information upon which to calculate the savings from the Senate Bill 31 restrictions on frivolous pleadings and motions. No meaningful claims data were available to calculate the impact on insurance losses. Information gathered in focus group discussions suggested no significant savings on insurance losses. An estimate of 0% savings was used for the lines of insurance in the TDI's regular closed claim survey. For those lines of insurance included in the special closed claim survey, the responses to Question 4K (see Appendix A) were used as the basis for the savings estimates. Those estimates were on a combined basis for the joint and several, venue, deceptive trade practices, and frivolous suit reforms and are summarized in Exhibit 4.

#### Deceptive Trade Practices Act (DTPA)

Since awards under the DTPA are generally not covered by insurance, it was assumed that any savings from this reform would have negligible impact on insurance rates. Responses to the special closed claim survey tended to confirm this judgment of negligible savings to the insurance system. No explicit savings were included in the cost estimates for the DTPA reforms. But to the extent that respondents included DTPA savings when answering the special closed

claim survey, some savings were included in the calculations for the lines of insurance covered by the special closed claim survey (see Exhibit 4).

### Medical Negligence

House Bill 971 was intended to discourage frivolous medical malpractice claims and reduce the number of defendants in each suit. This reform was considered in the same context as the restrictions on frivolous suits in Senate Bill 31. Discussions in the focus group sessions indicated negligible savings were anticipated. No explicit measurement of savings was included in the calculations.

### **Out-of-State Lawsuits**

Some policies issued on Texas risks give rise to claims and lawsuits outside Texas. Examples of this can be found in the auto liability and products liability coverages. These out-of-state claims are reported as Texas losses because they are associated with Texas insureds.

The Texas closed claim data upon which the savings calculations were based reportedly did not include out-of-state losses. As a result, the savings estimates derived from the data should have been applied only to that portion of the premium dollar, or to that portion of the losses, which represent in-state premiums or losses. Data published by the Insurance Research Council indicated that approximately 3% of the private passenger auto liability losses were out-of-state. Similar data were not available for commercial auto liability or products liability, but it was anticipated that the percentage was substantially greater than 3%.

One possible method of adjusting the savings estimates for the out-of-state losses would have been to judgmentally reduce the punitive damage savings by a factor of .97 for private passenger auto liability and a factor of .90 for commercial auto liability and products liability. Another

reasonable approach would have been to analyze a range of estimates and select a savings from the lower end of the range.

The rate reductions which were finally ordered were generally above the range of savings indicated by the closed claim data. It was difficult to determine if any recognition, even implicit recognition, was given to the impact of out-of-state losses.

### **Allocated Loss Adjustment Expenses**

With the possible exception of the venue reform, the various tort reforms were not expected to result in any measurable savings to allocated loss adjustment expenses (ALAE).

In the case of the joint and several reform, a greater incentive to vigorously defend a claim to avoid paying more than the insured's degree of fault was anticipated. Prior to the reforms, the precise degree of fault of each claimant was not as relevant as after the reforms.

For the punitive damage reforms, the caps on awards were anticipated to result in the injured party seeking greater amounts for economic and non-economic damages so as to increase the amount of the potential punitive damage award. This will take more effort to defend against, thus defense costs were anticipated to increase.

It is possible that there will be some ALAE savings on claims affected by the venue reforms. It was assumed the portion of ALAE savings from the venue reforms would be approximately equal to the percentage of loss savings.

With the potential for increases in ALAE arising from the joint and several and punitive damage reforms and the potential savings coming from the venue reforms, it was judged that there would be no overall savings in ALAE.

## **Range of Estimates**

Exhibit 6 summarizes the authors' indicated savings by line of insurance and compares those results to the savings determined by the TDI actuaries.

Even though we used different procedures in some cases and the TDI included savings for behavioral changes for some lines of insurance of as much as 2.5%, our results were often very close to those of the TDI actuaries. We believe the similarity of results suggests the reasonableness of both sets of calculations.

However, there are a few areas where the differences are significant enough to be of concern. We are convinced that the TDI overestimated the savings pertaining to the venue reforms for the general liability, commercial auto, commercial multi-peril and homeowners/farmowners lines of insurance. This overestimate results primarily because the TDI assumed that Harris County was an attractive "venue" county and that the venue reforms would reduce lawsuits in that county. But the information we have from attorneys is that Harris County was not a "venue" county. Our analysis reflected information from the special venue data call and confirmed that the savings in Harris County could be expected to be considerably less than those indicated by the TDI analysis. If the TDI's calculations were adjusted to reflect the information in the special venue data call, its results would have been very similar to ours.

We are also concerned that the TDI overestimated the savings from the joint and several liability reforms for product liability (non-BI). The TDI's calculations were based on only 4 claims from the special closed claim survey where joint and several liability reform would have impacted the result. Four claims is not a sufficient base to conclude that a 16.5% savings is indicated for this line.

With these exceptions, we believe the TDI's calculations generally confirmed the reasonableness of our results and vice versa.

### **Commissioners Decision**

In 1995 the Commissioner received testimony from several parties and ultimately ordered the rate reductions set forth in Exhibit 1. The ordered rate reductions were generally higher than the range of actuarial indications because of a subjective judgment that the tort reforms would cause a change in the claiming behavior of the plaintiffs. The authors' actuarial estimates were derived by reviewing past claims and adjusting the data for the impact of the new rules on those claims, with no explicit recognition of potential behavioral changes. The TDI actuaries developed estimates with some explicit recognition of behavioral changes, but even those estimates were overridden in the final order.

The danger of factoring "behavioral modifications" or other "unintended consequences" into the actuarial calculations is that such assumptions are necessarily arbitrary. Basing cost estimates on arbitrary assumptions can completely overshadow the actuarial cost estimates and convert objective calculations into pure guesses. On the other hand, not considering potential behavioral changes can cause the estimates to miss the mark. Whether the miss is high or low is the puzzle.

Whether or not the promised savings from the Texas tort reforms are ever realized may never be known because there are a myriad of factors affecting liability claims. It is nearly impossible to determine with certainty whether changes in claims severity or claim frequency arise from tort reform or some other phenomenon. In the recent 1997 hearing concerning the impact of these tort reforms, updated closed claim data for the year 1996 were introduced into evidence. These more recent data did not yet indicate tort reform savings different from the actuarial indications submitted in the 1995 hearing. If the 1997 hearing results in a decision to an increase the

mandated rate reductions, it will be because of anticipated behavioral changes, not because of actual savings materializing in the claims data.

## House Bill 1988 Rate Reductions

Coverage	Default Rate Reduction	Ordered Rate Reduction
Professional Liability		
Physicians, Other Health Care Provider	30%	3.5% to 11.5%*
Hospital	30%	3.5% to 15.0%*
Commercial Liability - Products/Completed Operations		
	25%	12.5%
Private Passenger Auto B.I. Liability	15%	7.5%
Commercial Auto B.I. Liability	20%	12.0%
Personal Umbrella and Excess Liability	20%	7.5%
Homeowners and Renters Liability	5%	0%
Farm/Ranch Owners Liability	5%	10%
Liability Portion of CMP	10%	12.5%
Employer's Liability Portion of Work. Comp.	10%	0%
Other Commercial Liability		
Umbrella	15%	18%
Excess Liab. For G.L., Auto, Products	15%	18%
Excess Med. Prof. - Physicians	15%	4.5% to 15%*
Excess Med. Prof. - Hospitals	15%	4.5% to 20%*
Excess Med. Prof. - Other	15%	0.5% to 17.5%*
Misc.	15%	1% to 12.5%**

\* Varies by occurrence v. Claims made and timing of suits

\*\* Varies by subline



**Impact of Punitive Damages Reform**  
**Private Passenger Automobile Bodily Injury Liability**  
**(Including UM/UIM)**

	All Claims Settlement Range				W'd Average
	Less Than \$20,000	\$20,001- \$50,000	\$50,001- \$100,000	Over \$100,000	
(1) Total Savings Resulting From Caps on Awards	\$ -	\$ 4,050,000	\$ -	\$ 82,527	
(2) Total Punitive Damages	4,000	4,358,383	228,977	733,873	
(3) Remaining Punitive Damages (2) - (1)	4,000	308,383	228,977	651,346	
(4) Estimated Savings Resulting From Elimination of Gross Negligence Standard and Adoption of Clear and Convincing Standard of Proof (3) x 0.25	1,000	77,096	57,244	162,837	
(5) Total Estimated Savings (1) + (4)	1,000	4,127,096	57,244	245,364	
(6) Savings Attributable to Excess of Policy Limits	-	4,111,250	23,387	48,000	
(7) Net Savings to Insurance System (5) - (6)	1,000	15,846	33,857	197,364	
(8) Total Primary Insurance System Paid Losses within Interval based on Survey (Special Survey, Q7a + Q7d)	1,913,379	8,689,387	21,279,076	27,594,028	
(9) Aggregate Paid Losses in Interval for All Companies Responding to Survey	593,823,708	313,240,391	93,763,324	58,633,424	
(10) Estimated Percentage Loss Savings in Interval based on Survey (7) / (8) W'd is based on aggregate paid in line (9)	0.1%	0.2%	0.2%	0.7%	0.1%

Source: Special Texas Closed Claim Survey

**Impact Of Punitive Damages Reform**

General Liability - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
1) Total Savings Resulting From Caps on Awards	16,008,543	6,502,515	10,030,125	32,541,183
2) Total Punitive Damages	30,402,613	24,841,918	23,358,465	78,602,996
3) Remaining Punitive Damages (2) - (1)	14,394,070	18,339,403	13,328,340	46,061,813
4) Estimated Savings Resulting From Elimination of Gross Negligence Standard and Adoption of Clear and Convincing Standard of Proof (3) x 0.25	3,598,518	4,584,851	3,332,085	11,515,453
5) Total Estimated Savings (1) + (4)	19,607,061	11,087,366	13,362,210	44,056,636
6) Savings Attributable to Excess of Policy Limits	10,239,367	1,960,750	6,927,000	19,127,116
7) Net Savings to Insurance System (5) - (6)	9,367,694	9,126,616	6,435,210	24,929,520
8) Total Primary Insurance System Paid Losses (Line 33 from Joint and Several Exhibit)	367,905,558	342,958,174	387,622,846	1,098,486,578
9) Ratio of Insured Savings to Total Primary Insurance System Losses (7) / (8)	2.5%	2.7%	1.7%	2.3%

Source: Regular Texas Closed Claim Survey

**Impact Of Joint And Several Reform**  
General Liability - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
1) Losses Paid on Claims with Complete Settlement Information and Greater than \$25,000 that were affected by Joint and Several Liability				
a) Primary Insurer	29,874,219	29,917,003	17,905,902	77,697,124
b) Deductible Applied to Claims	841,537	1,891,134	460,000	3,192,671
c) Excess Over Policy Limits	5,069,412	3,321,104	6,850,444	15,240,960
d) Other Insurers	<u>35,850,853</u>	<u>29,724,073</u>	<u>39,470,189</u>	<u>105,045,115</u>
e) Total	71,636,021	64,853,314	64,686,535	201,175,870
2) Total Savings				
a) Primary Insured	8,835,300	6,347,199	4,457,500	19,639,999
b) Other Insured	<u>1,935,048</u>	<u>1,763,059</u>	<u>5,063,066</u>	<u>8,761,173</u>
c) Total	10,770,348	8,110,258	9,520,566	28,401,172
3) Amount of Primary Insured Savings Attributable to Excess of Policy Limits	1,202,301	1,000,000	1,195,000	3,397,301
4) Net Savings - Primary Insured (2a) - (3)	7,632,999	5,347,199	3,262,500	16,242,698
5) Estimated Savings - Other Insured, Net of Excess Portion (2b) x [(4) / (2a)]	1,671,728	1,485,289	3,705,721	7,245,677
6) Portion of Primary Insureds Losses Excess of Policy Limits (1c) / (1a + 1b + 1c)	0.142	0.095	0.272	0.159
7) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((6) x 0.75)] x (1d)	32,041,815	27,616,497	31,428,134	92,554,406
8) Total Primary Insured Losses (1a) + (1b) + (7)	62,757,571	59,424,634	49,794,036	173,444,201
9) Ratio of Savings to Primary Insured Losses [(4) + (5)] / (8)	14.8%	11.5%	14.0%	13.5%
10) Loss Paid on Claims Greater than \$25,000 with Incomplete Settlement				
a) Primary Insurer	24,440,468	18,961,395	17,903,779	61,305,642
b) Deductible Applied to Claims	972,256	1,547,100	214,030	2,733,386
11) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion (10a) x [(7) / (1a)]	26,213,805	17,503,334	31,424,408	73,028,537
12) Estimated Total Net Primary Insurance System Paid Losses (10a) + (10b) + (11)	51,626,529	38,011,829	49,542,217	137,067,565
13) Estimated Total Net Primary Insurance System Savings (12) x (9)	7,654,387	4,370,500	6,932,982	18,562,133

Source: Regular Texas Closed Claim Survey

**Impact Of Joint And Several Reform**

General Liability - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
14) Losses Paid on Claims with Complete Settlement Information and Greater than \$25,000 that were not affected by Joint and Several Liability				
a) Primary Insurer	171,409,015	166,994,663	187,240,735	525,644,413
b) Deductible Applied to Claims	6,004,449	7,873,253	15,839,907	29,717,609
c) Excess Over Policy Limits	23,597,461	32,228,004	22,171,523	77,996,988
d) Other Insurers	<u>33,948,702</u>	<u>35,230,315</u>	<u>55,712,005</u>	<u>124,891,022</u>
e) Total	234,959,627	242,326,235	280,964,170	758,250,032
15) Ratio of Primary Insured Excess Payments to Total Primary Insured Payments (14c) / (14a + 14b + 14c)	0.117	0.156	0.098	0.123
16) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((15) x 0.75)] x (14d)	30,959,674	31,118,442	51,599,214	113,355,949
17) Total Net Primary Insurance System of Paid Losses (14a) + (14b) + (16)	208,373,138	205,986,358	254,679,856	668,717,971
18) Estimated Total Net Primary Insurance System Savings	0	0	0	0
19) Losses Paid on Claims with Complete Settlement Information and Between \$10,000 and \$25,000 that had Multiple Defendants				
a) Primary Insurer	444,982	385,435	472,220	1,302,637
b) Deductible Applied to Claims	15,500	23,500	5,000	44,000
c) Excess Over Policy Limits	0	0	0	0
d) Other Insurers	<u>252,406</u>	<u>241,272</u>	<u>275,883</u>	<u>769,561</u>
e) Total	712,888	650,207	753,103	2,116,198
20) Ratio of Primary Insured Excess Payments to Total Primary Insured Payments (19c) / (19a + 19b + 19c)	0.000	0.000	0.000	0.000
21) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((20) x 0.75)] x (19d)	252,406	241,272	275,883	769,561
22) Total Net Primary Insurance System of Paid Losses (19a) + (19b) + (21)	712,888	650,207	753,103	2,116,198
23) Estimated Total Net Primary Insurance System Savings (22) x (9) x 0.25	26,424	18,690	26,347	71,646

Source: Regular Texas Closed Claim Survey

**Impact Of Joint And Several Reform**

General Liability - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
24) Losses Paid on Claims with Incomplete Settlement Information and Between \$10,000 and \$25,000 that had Multiple Defendants				
a) Primary Insurer	503,010	533,188	625,637	1,661,835
b) Deductible Applied to Claims	20,000	28,599	250	48,849
25) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion (24a) x [(21) / (19a)]	285,321	333,761	365,513	981,765
26) Estimated Total Net Primary Insurance System Paid Losses (24a) + (24b) + (25)	808,331	895,548	991,400	2,692,449
27) Estimated Total Net Primary Insurance System Savings (26) x (9) x 0.25	29,962	25,742	34,684	91,155
28) Losses Paid on Claims Between \$10,000 and \$25,000 with Single Defendant				
a) Primary Insurer	13,343,411	14,044,104	12,557,939	39,945,454
b) Deductible Applied to Claims	420,156	624,077	579,252	1,623,485
29) Total Net Primary Insurance System of Paid Losses, (28a) + (28b)	13,763,567	14,668,181	13,137,191	41,568,939
30) Estimated Total Net Primary Insurance System Savings	0	0	0	0
31) Losses Paid on Claims \$10,000 and Under				
a) Total Paid	29,863,534	23,321,416	18,725,043	71,909,993
32) Total Savings	0	0	0	0
33) Estimated Total Net Primary Insurance System Paid Losses (8) + (12) + (17) + (22) + (26) + (29) + (31)	367,905,558	342,958,174	387,622,846	1,097,517,315
34) Estimated Total Net Primary Insurance System Savings [(4) + (5) + (13) + (18) + (23) + (27) + (30) + (32)] x 0.75	12,761,625	8,435,565	10,471,676	31,659,982
35) Ratio of Net Primary Insurance Savings to Total Net Primary Insurance System of Paid Losses (34) / (33)	3.5%	2.5%	2.7%	2.9%

Source: Regular Texas Closed Claim Survey

**Impact Of Joint And Several Reform**  
Commercial Automobile - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
1) Losses Paid on Claims with Complete Settlement Information and Greater than \$25,000 that were affected by Joint and Several Liability				
a) Primary Insurer	17,196,115	19,514,296	13,350,760	50,061,171
b) Deductible Applied to Claims	1,500	250	683,500	685,250
c) Excess Over Policy Limits	4,161,950	4,672,080	1,447,173	10,281,203
d) Other Insurers	<u>4,390,022</u>	<u>8,819,068</u>	<u>6,324,825</u>	<u>19,533,915</u>
e) Total	25,749,587	33,005,694	21,806,258	80,561,539
2) Total Savings				
a) Primary Insured	6,734,638	7,234,346	3,919,848	17,895,941
b) Other Insured	<u>354,485</u>	<u>476,889</u>	<u>1,083,281</u>	<u>2,155,148</u>
c) Total	7,089,123	7,711,235	5,003,129	20,051,089
3) Amount of Primary Insured Savings Attributable to Excess of Policy Limits	2,040,250	2,416,670	75,000	4,546,750
4) Net Savings - Primary Insured (2a) - (3)	4,694,388	4,817,676	3,844,848	13,349,191
5) Estimated Savings - Other Insured, Net of Excess Portion (2b) x [(4) / (2a)]	247,094	317,582	1,062,554	1,607,598
6) Portion of Primary Insureds Losses Excess of Policy Limits (1c) / (1a + 1b + 1c)	0.195	0.193	0.093	0.168
7) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((6) x 0.75)] x (1d)	3,748,469	7,541,397	5,881,401	17,065,785
8) Total Primary Insured Losses (1a) + (1b) + (7)	20,946,084	27,055,943	19,915,661	67,812,206
9) Ratio of Savings to Primary Insured Losses [(4) + (5)] / (8)	23.6%	19.0%	24.6%	22.1%
10) Loss Paid on Claims Greater than \$25,000 with Incomplete Settlement				
a) Primary Insurer	6,612,509	8,064,724	10,684,862	25,362,095
b) Deductible Applied to Claims	34,875	500,000	251,000	785,875
11) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion (10a) x [(7) / (1a)]	1,441,418	3,116,653	4,706,995	8,645,904
12) Estimated Total Net Primary Insurance System Paid Losses (10a) + (10b) + (11)	8,088,802	11,681,377	15,642,857	34,793,874
13) Estimated Total Net Primary Insurance System Savings (12) x (9)	1,908,265	2,217,143	3,854,544	7,674,203

Source: Regular Texas Closed Claim Survey

**Impact Of Joint And Several Reform**  
Commercial Automobile - Non Toxic  
Bodily Injury Liability

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Total</u>
14) Losses Paid on Claims with Complete Settlement Information and Greater than \$25,000 that were not affected by Joint and Several Liability				
a) Primary Insurer	259,710,240	304,880,531	302,641,396	867,232,167
b) Deductible Applied to Claims	11,909,996	9,839,276	14,750,546	36,499,818
c) Excess Over Policy Limits	22,886,526	43,392,330	40,356,727	106,635,583
d) Other Insurers	<u>10,745,143</u>	<u>11,630,342</u>	<u>11,814,408</u>	<u>34,189,893</u>
e) Total	305,251,905	369,742,479	369,563,077	1,044,557,461
15) Ratio of Primary Insured Excess Payments to Total Primary Insured Payments (14c) / (14a + 14b + 14c)	0.078	0.121	0.113	0.106
16) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((15) x 0.75)] x (14d)	10,118,878	10,573,408	10,814,843	31,483,557
17) Total Net Primary Insurance System of Paid Losses (14a) + (14b) + (16)	281,739,114	325,293,215	328,206,785	935,215,542
18) Estimated Total Net Primary Insurance System Savings	0	0	0	0
19) Losses Paid on Claims with Complete Settlement Information and Between \$10,000 and \$25,000 that had Multiple Defendants				
a) Primary Insurer	231,770	274,786	277,061	783,617
b) Deductible Applied to Claims	0	0	12,500	12,500
c) Excess Over Policy Limits	0	0	0	0
d) Other Insurers	<u>86,481</u>	<u>154,738</u>	<u>127,000</u>	<u>368,219</u>
e) Total	318,251	429,524	416,561	1,164,336
20) Ratio of Primary Insured Excess Payments to Total Primary Insured Payments (19c) / (19a + 19b + 19c)	0.000	0.000	0.000	0.000
21) Estimated Payments on Behalf of Other Insureds, Net of Excess Portion [1 - ((20) x 0.75)] x (19d)	86,481	154,738	127,000	368,219
22) Total Net Primary Insurance System of Paid Losses (19a) + (19b) + (21)	318,251	429,524	416,561	1,164,336
23) Estimated Total Net Primary Insurance System Savings (22) x (9) x 0.25	18,770	20,381	25,661	64,202

Source: Regular Texas Closed Claim Survey

**Combined Impact of Venue, DTPA,  
Frivolous and Joint & Several Damages Reforms**  
Products Liability Non-BI Claims

		All Claims Primary Insurer Settlement Range		Weighted Average
		Less Than \$25,000	Over \$25,000	
(1)	Amount of Reduced Payments ( Special Survey Q4k )	\$ 22,000	\$ 44,000	
(2)	Savings Attributable to Excess	-	-	
(3)	Net Savings to Primary Insurer	22,000	44,000	
(4)	Total Primary Insurance Paid Losses within Interval based on Survey (Special Survey, Q7a )	293,173	4,929,870	
(5)	Aggregate Paid Losses in Interval for All Companies Responding to Survey	1,307,450	4,929,870	
(6)	Estimated Percentage Loss Savings	7.5%	0.9%	<b>2.3%</b>

Source: Special Texas Closed Claim Survey



**Impact of Venue Reform**  
General Liability  
Bodily Injury Claims

County	Estimated Venue Savings*
Bexar	\$200,000
Harris	\$665,250
Jim Wells	\$462,500
Nuces	\$40,000
Panola	\$70,000
Rusk	\$2,293,546
(1) Total Savings For Claims in Survey	\$3,731,296
(2) Total Settlement Amounts For Outside Claims in Special Venue Survey	\$54,466,493
(3) Overall Savings For Claims in Survey (1) / (2)	6.9%
(4) Total amount of Settlements for Outside Claims >\$100,000 that were not responded to in survey	\$12,123,898
(5) Expected Savings on No Response Claims (3) x (4)	\$830,563
(6) Total Estimated Venue Savings (1) + (5)	\$4,561,859
(7) Total 1993 Settlement Amounts including amount Paid < \$10,000	\$413,098,311
(8) Estimated % Venue Savings (6) / (7)	1.1%

\* Per response 2d. Used lowest response if % range was given, no offset for excess  
Excludes claims where injury occurred out-of-state and proper venue indicated in Q2a and Q2b.

Source: Special Venue Data Call for 1993 - Claims Over \$100,000

Source: Regular Texas Closed Claim Survey

Total  
1991 -  
1993

County Suit Filed	Claims from Inside County			Claims from Outside County			All Claims		
	Number	Total Settlement	Average Settlement	Number	Total Settlement	Average Settlement	Number	Total Settlement	Average Settlement
Anderson	1	1,600,000	1,600,000	0	0	0	1	1,600,000	1,600,000
Andrews	2	186,046	93,023	1	40,000	40,000	3	226,046	75,349
Angelina	4	778,433	194,608	0	0	0	4	778,433	194,608
Aransas	0	0	0	0	0	0	0	0	0
Archer	0	0	0	0	0	0	0	0	0
Armstrong	0	0	0	0	0	0	0	0	0
Atascosa	0	0	0	0	0	0	0	0	0
Austin	1	30,000	30,000	0	0	0	1	30,000	30,000
Bailey	0	0	0	0	0	0	0	0	0
Bandera	0	0	0	0	0	0	0	0	0
Bastrop	0	0	0	0	0	0	0	0	0
Travis	13	4,739,019	364,540	7	4,763,000	680,429	20	9,502,019	475,101
Trinity	1	235,000	235,000	0	0	0	1	235,000	235,000
Tyler	1	450,000	450,000	0	0	0	1	450,000	450,000
Upshur	1	37,500	37,500	0	0	0	1	37,500	37,500
Upton	0	0	0	0	0	0	0	0	0
Uvalde	0	0	0	0	0	0	0	0	0
Val Verde	4	750,210	187,553	0	0	0	4	750,210	187,553
Van Zandt	0	0	0	0	0	0	0	0	0
Victoria	2	355,658	177,829	1	30,000	30,000	3	385,658	128,553
Walker	0	0	0	0	0	0	0	0	0
Waller	0	0	0	0	0	0	0	0	0
Ward	0	0	0	0	0	0	0	0	0
Washington	0	0	0	0	0	0	0	0	0
Webb	4	281,705	70,426	0	0	0	4	281,705	70,426
Wharton	0	0	0	0	0	0	0	0	0
Wheeler	2	678,464	339,232	0	0	0	2	678,464	339,232
Wichita	2	475,000	237,500	3	1,034,263	344,754	5	1,509,263	301,853
Wilbarger	0	0	0	0	0	0	0	0	0
Willacy	1	70,000	70,000	0	0	0	1	70,000	70,000
Williamson	0	0	0	0	0	0	0	0	0
Winkler	0	0	0	0	0	0	0	0	0
Wise	2	132,500	66,250	0	0	0	2	132,500	66,250
Wood	0	0	0	0	0	0	0	0	0
Yoakum	0	0	0	0	0	0	0	0	0
Young	0	0	0	0	0	0	0	0	0
Zapata	1	240,000	240,000	0	0	0	1	240,000	240,000
Zavala	1	300,000	300,000	0	0	0	1	300,000	300,000
Statewide	667	253,713,841	380,381	127	65,404,391	514,995	794	319,118,232	401,912

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Impact of Venue Reform  
Products Liability Bodily Injury Losses  
Summary of Estimated Savings For Claims > \$25,000

Exhibit 5  
Page 2

**Impact of Venue Reform  
Products Liability Bodily Injury Losses  
Summary of Estimated Savings For Claims > \$25,000**

County Suit Filed	Frequency Ratios					Severity Ratios		Outside # Claims in Selected Counties	Excess # Outside Claims	Excess # Reduced By 25% For Excess Loss	Estimated Savings
	Ratio 1: # Outside to # Inside	Ratio 2: # Outside to # Total	Ratio 3: # Inside to Population	Ratio 4: # Outside to Population	Ratio 5: Ratio 1 to SW Ratio 1	Ratio 6: All Avg. to SW All Avg.	Ratio 7: Out Avg. to SW In Avg.				
<b>Total</b>											
<b>1991 -</b>											
<b>1993</b>											
Anderson	0.0%	0.0%	2.1%	0.0%	0.0%	398.1%	0.0%	-	-	-	-
Andrews	50.0%	33.3%	13.9%	7.0%	262.6%	18.7%	10.5%	-	-	-	-
Angelina	0.0%	0.0%	5.7%	0.0%	0.0%	48.4%	0.0%	-	-	-	-
Aransas	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Archer	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Armstrong	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Atascosa	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Austin	0.0%	0.0%	5.0%	0.0%	0.0%	7.5%	0.0%	-	-	-	-
Bailey	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Bandera	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Bastrop	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
...											
...											
...											
...											
Travis	53.8%	35.0%	2.3%	1.2%	282.8%	118.2%	178.9%	7.00	3.48	2.61	783,375
Trinity	0.0%	0.0%	8.7%	0.0%	0.0%	58.5%	0.0%	-	-	-	-
Tyler	0.0%	0.0%	6.0%	0.0%	0.0%	112.0%	0.0%	-	-	-	-
Typhur	0.0%	0.0%	3.2%	0.0%	0.0%	9.3%	0.0%	-	-	-	-
Upton	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Uvalde	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Val Verde	0.0%	0.0%	10.3%	0.0%	0.0%	46.7%	0.0%	-	-	-	-
Van Zandt	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Victoria	50.0%	33.3%	2.7%	1.3%	262.6%	32.0%	7.9%	-	-	-	-
Walker	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Waller	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Ward	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Washington	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Webb	0.0%	0.0%	3.0%	0.0%	0.0%	17.5%	0.0%	-	-	-	-
Wharton	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Wheeler	0.0%	0.0%	34.0%	0.0%	0.0%	84.4%	0.0%	-	-	-	-
Wichita	150.0%	60.0%	1.6%	2.5%	787.8%	75.1%	90.6%	-	-	-	-
Wilbarger	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Willacy	0.0%	0.0%	5.6%	0.0%	0.0%	17.4%	0.0%	-	-	-	-
Williamson	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Winkler	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Wise	0.0%	0.0%	5.8%	0.0%	0.0%	16.5%	0.0%	-	-	-	-
Wood	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Yoakum	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Young	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-	-	-	-
Zapata	0.0%	0.0%	10.8%	0.0%	0.0%	59.7%	0.0%	-	-	-	-
Zavala	0.0%	0.0%	8.2%	0.0%	0.0%	74.6%	0.0%	-	-	-	-
Statewide	19.0%	16.0%	3.9%	0.7%	100.0%	100.0%	135.4%	39	14	11	6,075,857
								Total Settlement Amount For Claims > \$25,000			323,731,699

Source: Regular Texas Closed Claim Survey

**Impact of Venue Reform**  
**Environmental Liability Bodily Injury Losses**  
**Summary of Estimated Savings For Claims > \$25,000**

Estimated Venue Savings	\$49,959
Total Settlement Amount For Claims > \$25,000	\$74,292,911
Estimated Percentage Savings	0.1%

**Average Paid ALAE Per Claim  
By Primary Insured's % of Fault  
1991-1993 Data**

Line	Primary Insured's % of Fault	Number of Claims	Average Paid ALAE
General Liability	0-10	409	43,990
	11-25	487	44,504
	26-50	1,157	31,941
	51-75	879	27,636
	76-90	667	25,868
	91-100	1,794	29,141
	Total	5,393	31,605
Commercial Auto	0-10	319	13,337
	11-25	120	24,007
	26-50	471	21,891
	51-75	539	18,559
	76-90	677	13,839
	91-100	6,233	8,877
	Total	8,359	11,024
Commercial Multi-Peril	0-10	198	49,507
	11-25	235	31,171
	26-50	723	25,102
	51-75	599	18,298
	76-90	454	15,325
	91-100	1,191	17,882
	Total	3,400	21,909
Medical Professional	0-10	232	31,616
	11-25	199	44,418
	26-50	466	42,923
	51-75	253	44,148
	76-90	155	35,230
	91-100	1,421	32,011
	Total	2,726	36,058
Other Professional	0-10	10	42,755
	11-25	16	39,187
	26-50	19	127,346
	51-75	12	35,421
	76-90	8	68,663
	91-100	125	23,520
	Total	190	38,887

Source: Regular Texas Closed Claim Survey



**Average Paid ALAE Per Claim  
By Primary Insured's % of Fault  
1991-1993 Data**

Line	Primary Insured's % of Fault	Number of Claims	Average Paid ALAE
General Liability	0-10	409	43,990
	11-25	487	44,504
	26-50	1,157	31,941
	51-75	879	27,636
	76-90	667	25,868
	91-100	1,794	29,141
	Total	5,393	31,605
Commercial Auto	0-10	319	13,337
	11-25	120	24,007
	26-50	471	21,891
	51-75	539	18,559
	76-90	677	13,839
	91-100	6,233	8,877
	Total	8,359	11,024
Commercial Multi-Peril	0-10	198	49,507
	11-25	235	31,171
	26-50	723	25,102
	51-75	599	18,298
	76-90	454	15,325
	91-100	1,191	17,882
	Total	3,400	21,909
Medical Professional	0-10	232	31,616
	11-25	199	44,418
	26-50	466	42,923
	51-75	253	44,148
	76-90	156	35,230
	91-100	1,421	32,011
	Total	2,726	36,058
Other Professional	0-10	10	42,755
	11-25	16	39,187
	26-50	19	127,346
	51-75	12	35,421
	76-90	8	68,663
	91-100	125	23,520
	Total	190	38,887

Source: Regular Texas Closed Claim Survey

**TEXAS DEPARTMENT OF INSURANCE**  
**SPECIAL CLOSED CLAIM SURVEY FORM**

*Company Name and Address:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*NAIC Company Code:* \_\_\_\_\_ *NAIC Group Code:* \_\_\_\_\_

*Claim File Identification:* \_\_\_\_\_ *Claimant Suffix:* \_\_\_\_\_

*Form Completed By:* \_\_\_\_\_ *Tel:* \_\_\_\_\_

*Form Reviewed by (Coordinator):* \_\_\_\_\_ *Tel:* \_\_\_\_\_

---

*Reserved for State Use: (Do not write in this area).*



IC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

**Case Information:**

Complete the following items: MM / DD / YY

1. a. Date of injury ..... \_\_\_/\_\_\_/\_\_\_
- b. Date suit filed (indicate N/A if not applicable) ..... \_\_\_/\_\_\_/\_\_\_
- c. Date of settlement ..... \_\_\_/\_\_\_/\_\_\_
- d. Date claim closed ..... \_\_\_/\_\_\_/\_\_\_

**Policy Information:**

2. a. Policy Type (choose one) ..... \_\_\_\_\_
  1. Private passenger auto liability (including UM/UIM coverage)
  2. Homeowners multiple peril
  3. Farmowners/Ranchowners multiple peril
  4. Personal umbrella
  5. Product liability
  6. Monoline general liability
  7. Commercial auto liability
  8. Commercial multi-peril liability (including TCPP and TBOP)
  9. Other professional liability
- b. Indicate the code for the line of business that the claim was reported on under the Annual Statement. (choose one) ..... \_\_\_\_\_
 

030 - Farmowners multiple peril  
 040 - Homeowners multiple peril  
 052 - Commercial multiple peril (liability portion)  
 170 - Other liability  
 180 - Product liability  
 192 - Other private passenger auto liability  
 194 - Other commercial auto liability
- c. What is the per person policy limit? (indicate N/A if not applicable) ..... \$ \_\_\_\_\_
- d. What is the per occurrence policy limit? (indicate N/A if not applicable) ..... \$ \_\_\_\_\_
- e. What is the aggregate policy limit? (indicate N/A if not applicable) ..... \$ \_\_\_\_\_
- f. What is the deductible/self-insured retention limit? (indicate N/A if not applicable) ..... \$ \_\_\_\_\_

**Venue Information:**

3. a. Indicate the county number where the insured's principal office is located if a commercial entity, or the insured's principal place of residence if not a commercial entity. .... \_\_\_\_\_
- b. Indicate the county number where the injury was alleged to have occurred. .... \_\_\_\_\_
- c. Indicate the county number of plaintiff's residence at the time of the incident. .... \_\_\_\_\_

NAIC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

- d. Indicate the county number where suit was initially filed (indicate N/A if not applicable)..... \_\_\_\_\_
- e. Indicate the county number where the trial was held (indicate N/A if not applicable)..... \_\_\_\_\_
- f. If the new law affecting choice of venue had been in effect when this claim was made, would it have impacted the settlement of this claim?\* ..... [ ]Unk [ ]Y [ ]N

**Civil Justice and General Information:**

- 4. a. What stage of the legal system was a settlement reached or an award made? \_\_\_\_\_  
Choose one
    - 1. Alternative dispute resolution
    - 2. Settlement, no suit filed
    - 3. Suit filed, settlement reached before trial
    - 4. During trial, before court verdict
    - 5. Court verdict
    - 6. Settlement reached after verdict
  - b. Was your insured a business? ..... [ ]Y [ ]N
  - c. If yes to item 4(b), indicate what type of business? (indicate N/A if not applicable) \_\_\_\_\_
  - d. Did this claim arise from the rendering of a professional service? ..... [ ]Y [ ]N
  - e. Was the claimant a business? ..... [ ]Unk [ ]Y [ ]N
  - f. Were there any defendants (tort feasons) other than your insured involved in relation to this claim? ..... [ ]Y [ ]N
  - g. Have all of the other defendants (tort feasons) settled relative to this claim? .. [ ]Unk [ ]Y [ ]N
  - h. Did this claim allege Deceptive Trade Practices Act (DTPA) violations against your insured? ..... [ ]Y [ ]N
- If yes to item 4(h), answer items 1 and 2:
- 1. Were any payments for this claim due to DTPA allegations against your insured? ..... [ ]Y [ ]N
  - 2. If the new law limiting DTPA actions had been in effect when this claim was made, would it have impacted the settlement of this claim?\* ..... [ ]Unk [ ]Y [ ]N
- \*Use your most professional opinion.

AIC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

- i. If the new law punishing parties for filing frivolous pleadings had been in effect when this claim was made, would it have impacted the settlement of this claim? \* ..... [ ] Unk [ ] Y [ ] N
- j. If the new law limiting payments for joint and several liability claims had been in effect when this claim was made, would it have impacted the settlement of this claim? \* ..... [ ] Unk [ ] Y [ ] N
- k. If any of the responses to items 3(f), 4(h), 2, 4(i), or 4(j) were Yes, estimate the amount that your payment would have been reduced? (indicate "Unknown" if applicable) \* ..... \$ \_\_\_\_\_

**Allocated Loss Adjustment Expenses:**

Loss adjustment expenses must be allocated on a per claim basis. Round all amounts to dollars.

- 5. a. Were there any allocated loss adjustment expenses paid relating to this claim? [ ] Y [ ] N
- b. Indicate the amount paid for defense counsel (either outside or in-house). \$ \_\_\_\_\_
- c. Indicate the amount of all other allocated loss adjustment expense. \$ \_\_\_\_\_
- d. Indicate the total allocated loss adjustment expense [sum of items 5(b) + 5(c)]. \$ \_\_\_\_\_

**Allocation of Damages:**

Damages must be allocated based on the total indemnity amount indicated in item 7(e).\*

- 6. a. 1. Economic losses ..... \$ \_\_\_\_\_
- 2. Non-economic losses ..... \$ \_\_\_\_\_
- 3. Exemplary damages ..... \$ \_\_\_\_\_
- 4. Interest ..... \$ \_\_\_\_\_
- 5. Total ..... \$ \_\_\_\_\_

The percentage of fault allocations do not have to agree with the percentage of the settlement paid by that party. Round percentages to whole numbers.\*

- b. Estimated percentage of fault assigned to:
- 1. Injured party ..... %
- 2. Your insured ..... %
- 3. Other parties ..... %
- 4. Total ..... 100%

**Settlement Information:**

Indicate the following dollar amounts for indemnity payments as applicable to this claim. Indicate unknown where applicable. Do not indicate unknown in item 7(e). Round all amounts to dollars.

- 7. *Amounts paid on behalf of your insured [items 7(a) through 7(c)]*
- a. Amount paid under the policy covering this loss ..... \$ \_\_\_\_\_
- b. Amount paid by either the insured or an insurer for underlying coverage ..... \$ \_\_\_\_\_
- c. Amount paid by either the insured or an insurer for coverage exceeding your policy limits ..... \$ \_\_\_\_\_
- d. Amounts paid on behalf of other parties ..... \$ \_\_\_\_\_
- e. **Total Amount of Settlement** ..... \$ \_\_\_\_\_

\*Use your most professional opinion.

**TEXAS DEPARTMENT OF INSURANCE**  
**SPECIAL EMPLOYERS' LIABILITY CLAIM SURVEY FORM**

*Company Name and Address:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*NAIC Company Code:* \_\_\_\_\_ *NAIC Group Code:* \_\_\_\_\_

*Claim File Identification:* \_\_\_\_\_ *Claimant Suffix:* \_\_\_\_\_

*Form Completed By:* \_\_\_\_\_ *Tel:* \_\_\_\_\_ ( ) \_\_\_\_\_

*Form Reviewed by (Coordinator):* \_\_\_\_\_ *Tel:* \_\_\_\_\_ ( ) \_\_\_\_\_

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*Reserved for State Use: (Do not write in this area).*

NAIC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

**Site Information:**

Complete the following items:

MM / DD / YY

1. a. Date of injury ..... / ..... / .....
- b. Date suit filed (indicate N/A if not applicable) ..... / ..... / .....
- c. Date of settlement of employers' liability claim (indicate N/A if not applicable) ..... / ..... / .....
- d. Is the employers' liability claim still open? .....  Y  N
- e. Is the corresponding workers' compensation claim still open? .....  Y  N

**Policy Information:**

2. a. What is the employers' liability policy limit? ..... \$ .....
- b. What is the deductible/self-insured retention limit? (indicate N/A if not applicable) ..... \$ .....

**Venue Information:**

3. a. Indicate the county number where the insured's principal office is located. ....
- b. Indicate the county number where the injury was alleged to have occurred. ....
- c. Indicate the county number of plaintiff's principal office is located if a commercial entity, or the plaintiff's principal place of residence, at the time of the incident. ....
- d. Indicate the county number where suit was initially filed (indicate N/A if not applicable). ....
- e. Indicate the county number where the trial was held (indicate N/A if not applicable). ....
- f. If the new law affecting choice of venue had been in effect when this claim was made, would it have impacted the settlement of this claim? .....  Unk  Y  N

**Civil Justice and General Information:**

4. a. Indicate the type of business of your insured. ....
- b. Was the claimant a business? .....  Unk  Y  N
- c. Were there any defendants (tort feorsors) other than your insured involved in relation to this claim? .....  Y  N
- d. Have all of the other defendants (tort feorsors) settled relative to this claim? .....  Unk  Y  N

\*Use your most professional opinion.

NAIC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

- e. Did this claim allege Deceptive Trade Practices Act (DTPA) violations against your insured? .....  Y  N
- If yes to item 4(e), answer items 1 and 2:
1. Were any payments for this claim due to DTPA allegations against your insured? .....  Y  N
2. If the new law limiting DTPA actions had been in effect when this claim was made, would it have impacted the settlement of this claim? .....  Unk  Y  N
- f. Did the payment on this claim include exemplary (punitive) damages? .....  Y  N
- If yes to 4(f), would the new law capping exemplary damages, replacing the gross negligence standard with one of malice, and changing the required level of proof from the preponderance of the evidence to clear and convincing evidence, have impacted this settlement? .....  Y  N
- g. If the new law punishing parties for filing frivolous pleadings had been in effect when this claim was made, would it have impacted the settlement of this claim? .....  Unk  Y  N
- h. If the new law limiting payments for joint and several liability claims had been in effect when this claim was made, would it have impacted the settlement of this claim? .....  Unk  Y  N
- i. If any of the responses to items 3(f), 4(e) 2, 4(f), 4(g) or 4(h) were Yes, estimate the amount that your payment would have been reduced? (indicate "Unknown" if applicable)\* ..... \$ \_\_\_\_\_
- j. Describe the nature of the injury  
\_\_\_\_\_
- k. Did the claim involve a hold harmless agreement? .....  Y  N
- l. Did the claim involve action over? .....  Y  N

\*Use your most professional opinion.

**Allocated Loss Adjustment Expenses:**

Loss adjustment expenses must be allocated on a per claim basis. Round all amounts to dollars.

5. a. Were there any allocated loss adjustment expenses paid relating to the employers' liability portion of this claim? .....  Y  N
- b. Indicate the amount paid for defense counsel (either outside or in-house). .. \$ \_\_\_\_\_
- c. Indicate the amount of all other allocated loss adjustment expense. .... \$ \_\_\_\_\_

\*Use your most professional opinion.

NAIC Co. Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_ Claim File ID: \_\_\_\_\_

**Location of Damages:** \_\_\_\_\_

d. Indicate the total allocated loss adjustment expense [sum of items 5(b) + 5(c)]. \$ \_\_\_\_\_

Damages must be allocated based on the total indemnity amount indicated in item 7(e).\*

- |    |    |                              |          |
|----|----|------------------------------|----------|
| 6. | a. | 1. Economic losses .....     | \$ _____ |
|    |    | 2. Non-economic losses ..... | \$ _____ |
|    |    | 3. Exemplary damages .....   | \$ _____ |
|    |    | 4. Interest .....            | \$ _____ |
|    |    | 5. Total .....               | \$ _____ |

The percentage of fault allocations do not have to agree with the percentage of the settlement paid by that party. Round percentages to whole numbers.\*

- b. Estimated percentage of fault assigned to:
- |                        |         |
|------------------------|---------|
| 1. Injured party ..... | _____ % |
| 2. Your insured .....  | _____ % |
| 3. Other parties ..... | _____ % |
| 4. Total .....         | 100%    |

**Settlement Information:** \_\_\_\_\_

Indicate the following dollar amounts for indemnity payments as applicable to this claim. Indicate unknown where applicable. Do not indicate unknown in item 7(e). Round all amounts to dollars.

7. *Amounts paid on behalf of your insured [Items 7(a) through 7(c)]*
- |  |          |
|--|----------|
| a. Amount paid under the policy covering this loss .....   | \$ _____ |
| b. Amount paid by either the insured or an insurer for underlying coverage .....                   | \$ _____ |
| c. Amount paid by either the insured or an insurer for coverage exceeding your policy limits ..... | \$ _____ |
| d. <i>Amounts paid on behalf of other parties</i> .....  | \$ _____ |
| e. <b>Total Amount of Settlement</b> .....   | \$ _____ |

\*Use your most professional opinion.

**TEXAS DEPARTMENT OF INSURANCE**  
**SPECIAL DTPA AND VENUE CLAIM SURVEY FORM**

Company Name and Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAIC Company Code: \_\_\_\_\_ NAIC Group Code: \_\_\_\_\_

Claim File Identification: \_\_\_\_\_ Claimant Suffix: \_\_\_\_\_

Form Completed By: \_\_\_\_\_ Tel: ( ) \_\_\_\_\_

Form Reviewed by (Coordinator): \_\_\_\_\_ Tel: ( ) \_\_\_\_\_

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*Reserved for State Use: (Do not write in this area).*



**Complete the Following Items:**

1. Did this claim allege Deceptive Trade Practices Act (DTPA) violations against your insured?  Y  N
- If your answer is "no", go to question 2; otherwise answer the following:
- a. Were any payments for this claim due to DTPA allegations against your insured?  Y  N
- b. Was the amount of settlement affected by the DTPA allegations?  Y  N
- c. If the response to "a" or "b" was "yes", please estimate the amount of by which it affected the cost of the claim (use your most professional opinion). \_\_\_\_\_
- d. If the new law limiting DTPA actions had been in effect when this claim was made, would it have impacted the settlement of this claim (use your most professional opinion)?  Unk  Y  N
2. a. Indicate county number where the insured's principal office is located. \_\_\_\_\_
- b. Indicate county number of the plaintiff's residence at the time of the incident if plaintiff is a natural person. \_\_\_\_\_
- c. If multiple defendants, would the plaintiff have been able to establish venue under the new law against any defendant in the county in which the original suit was actually filed?  Y  N
- If yes, give basis
- 
- d. If the new law governing venue had been in effect and the county of suit of this claim would not qualify as proper venue, estimate the impact of the settlement. \_\_\_\_\_
- e. Was the suit filed in Federal or State Court?  Fed  State





