



Inflation – An Update

November 7, 2022 – CAS Annual Meeting

Presented by: Brian Z. Brown, FCAS, MAAA, ARM

John Jacobi, PhD

Benoit Carrier, FCAS, MAAA





Antitrust Notice

The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.

Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.

It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.



What is Social Inflation?

- No uniform definition
- In this presentation, I will use the following definition:
Rising costs of insurance that can't be explained by economic inflation

Reasons for Social Inflation

- Change in jury attitudes
- Plaintiff attorneys are developing new strategies
- Third Party Litigation Funding

Jury Attitudes

- Some believe that current jury pools (e.g., millennials) have a lower opinion of big business
- The mortgage crisis of 2007-08 resulted in many people not trusting big business
- Some people see jury service as a way to right social wrongs and redistribute wealth
 - Empirical evidence suggests that jury awards are highest in areas where income inequality is higher

Plaintiff Attorney Strategies

- Reptile Tactics – make juries feel fear – 2009 book by a trial attorney and a jury consultant
- Blame the organization for the behavior
- Anchoring Tactics – amount suggested by plaintiff attorney creates a baseline
- Various conferences and better communication among plaintiff attorneys
- Advertising promoting large awards
 - US television advertising by attorneys has tripled in the past decade¹
 - A lack of policy and enforcement of existing regulations has allowed some attorneys to manipulate advertising in ways that usurps and trivializes the justice system with asymmetric information. This is contributing to the rise of nuclear verdicts (in excess of \$10 million) in the trucking industry.²

¹ Swiss Re Institute, US litigation funding and social inflation – The rising costs of legal liability, December 2021

² <https://www.ccjdigital.com/business/article/15066258/misleading-legal-ads-contribute-to-trucking-nuclear-verdicts>

Third Party Litigation Funding (TPLF)

- Provide up front funding to the plaintiff attorney in exchange for a percentage of the final settlement
- Many TPLF are founded by former litigators
- According to Bloomberg¹, the TPLF industry is estimated to be worth \$39 billion
- Swiss Re² estimates that TPLF companies are earning a return of 25%
- TPLF is now in the mainstream in front of bar association meetings, and they have their own trade lobby
- Hard to tell, but appears that TPLF started to grow around 2010
- TPLF is often in the background and unknown to defense attorneys
- TPLF have an economic incentive to roll the dice and go to court

¹ <https://www.bloomberg.com/news/articles/2021-11-15/hedge-funds-have-turned-lawsuit-bets-into-a-39-billion-industry#xj4y7vzkg>

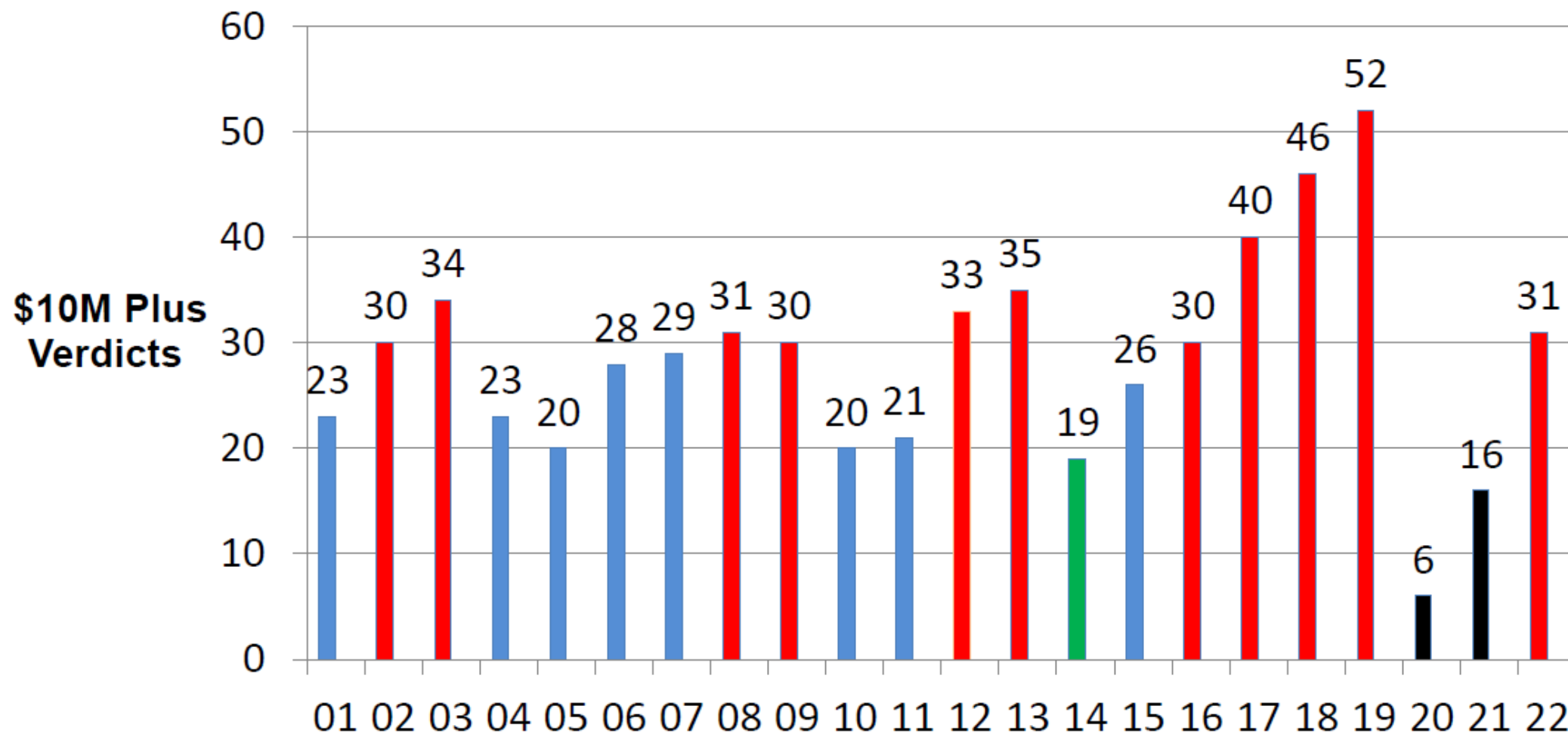
² <https://www.swissre.com/institute/research/topics-and-risk-dialogues/casualty-risk/us-litigation-funding-social-inflation.html>

Nuclear Verdicts

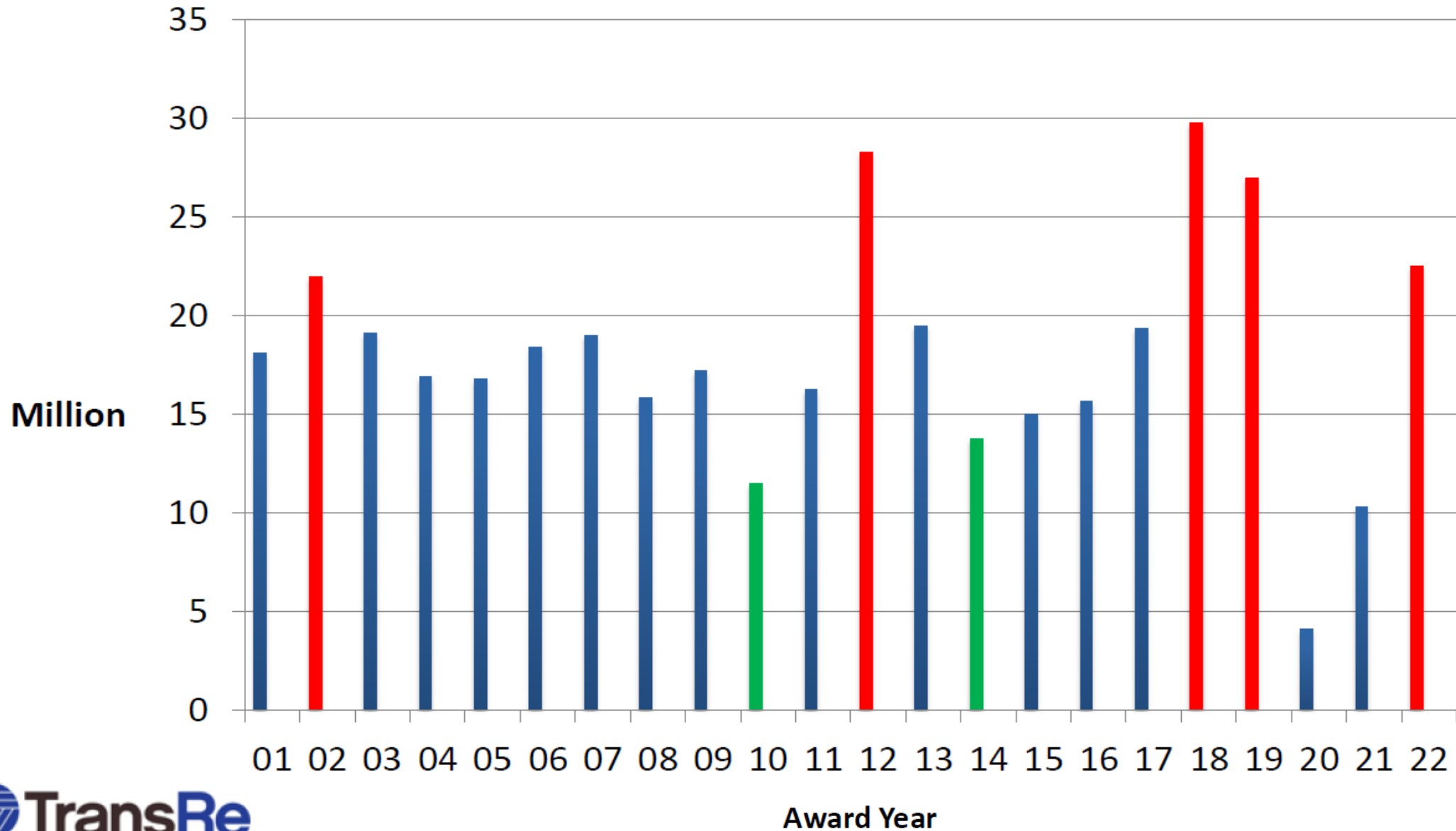
- Awards of \$10 million or more
- Most prevalent in
 - Products Liability
 - Commercial Auto
 - Medical Professional Liability

\$10M+ Verdicts, 2001-22

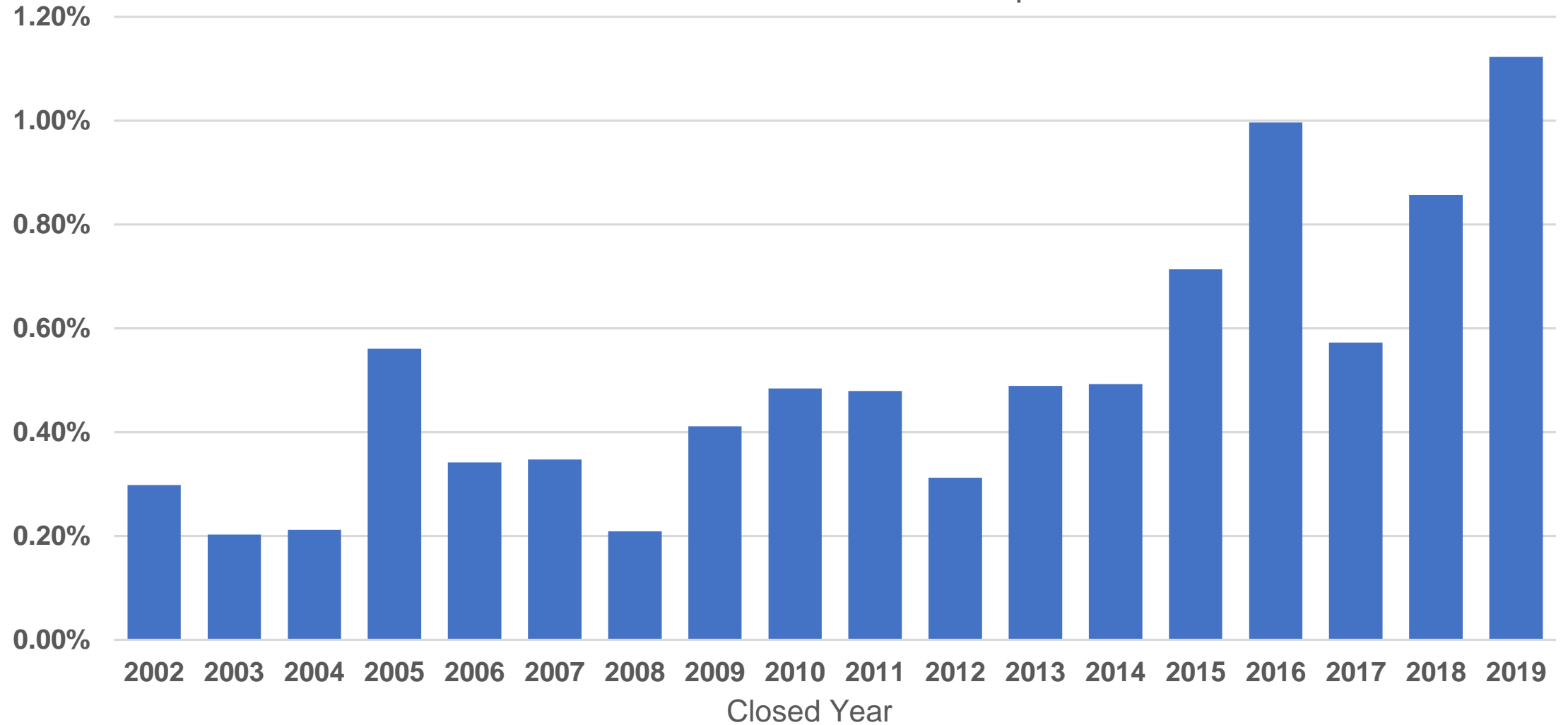
Data known as of 09/30/2022



Average of Top 50 Med Mal Verdicts

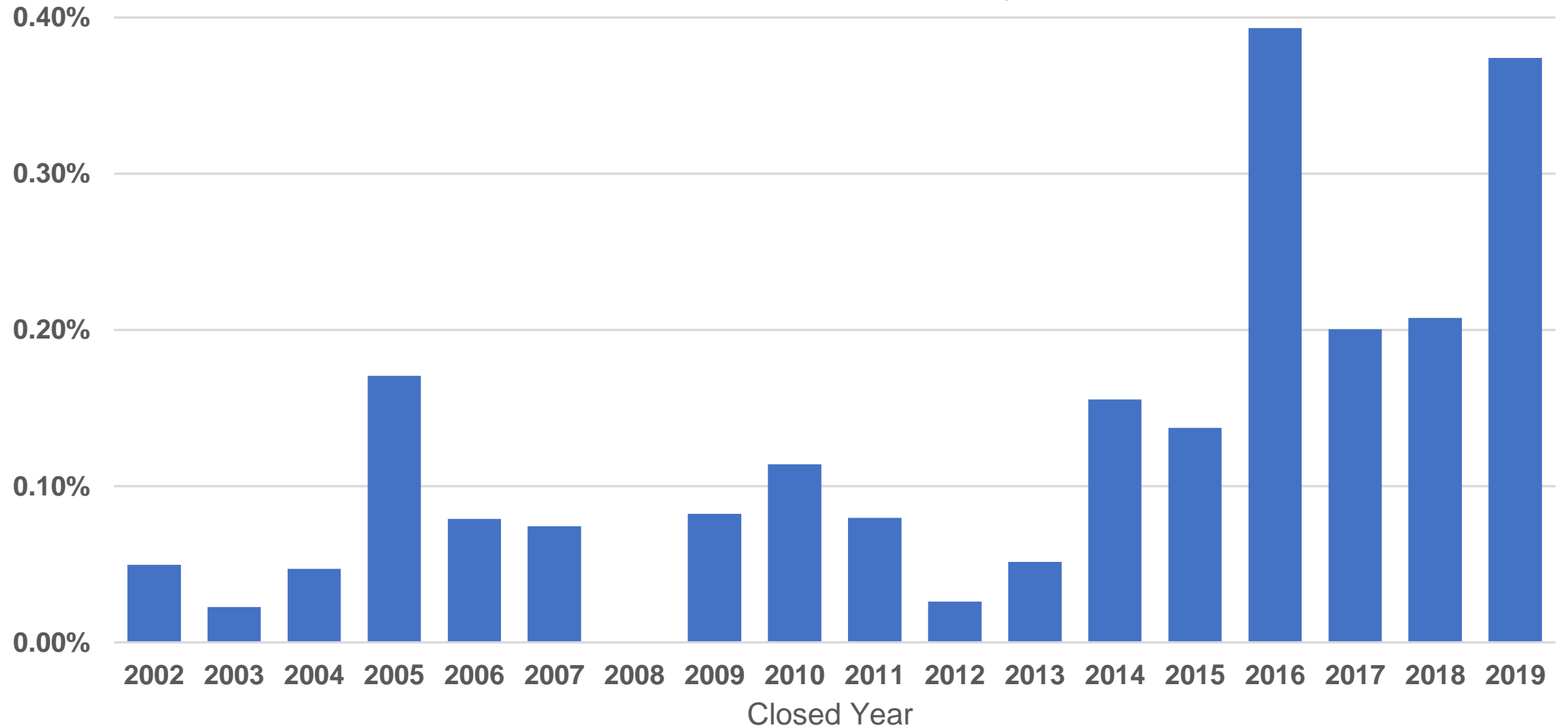


Hospital Professional Liability Large Claim History % of Closed Claims Over \$5M



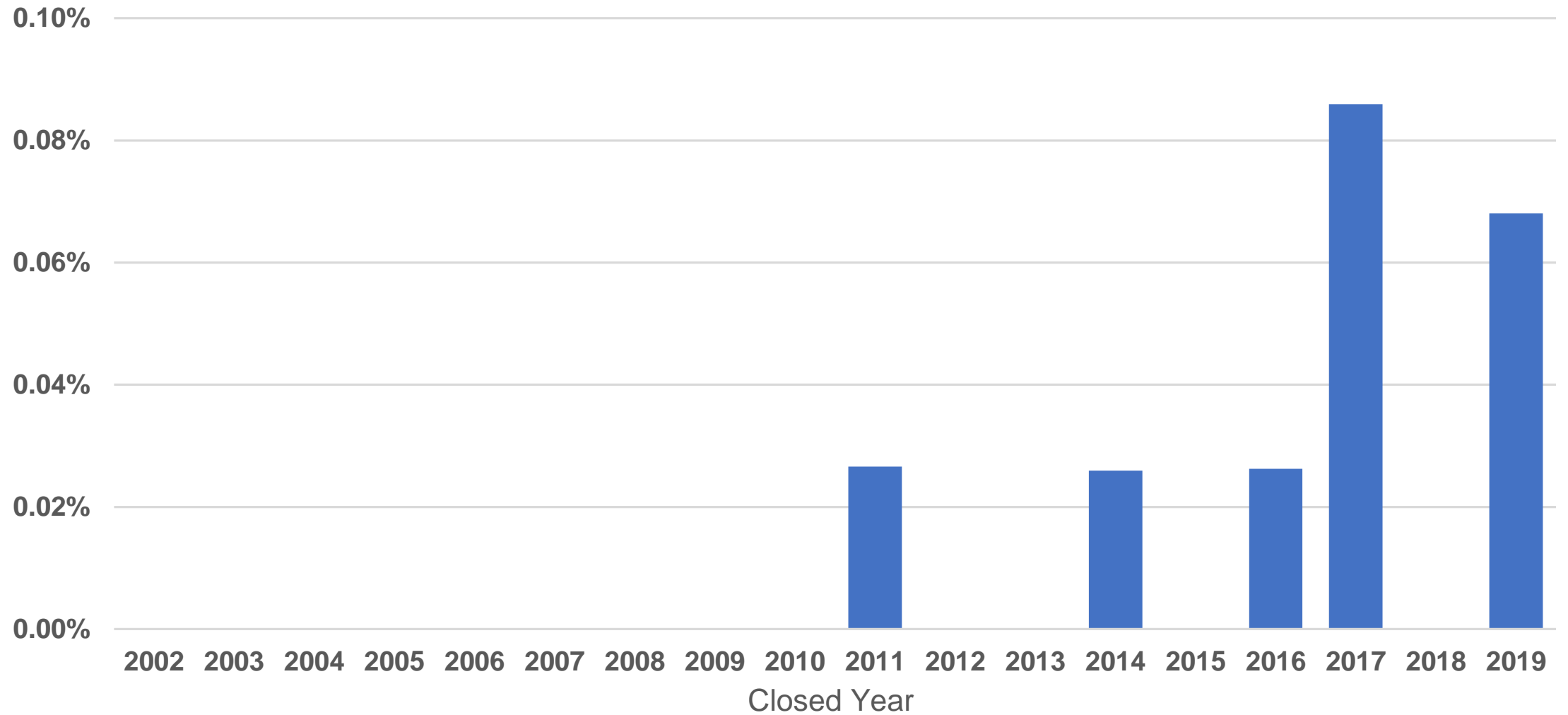
Source: Milliman closed claim database evaluated through December 31, 2019. Reflects payments on closed claims (not verdicts).

Hospital Professional Liability Large Claim History % of Closed Claims Over \$10M



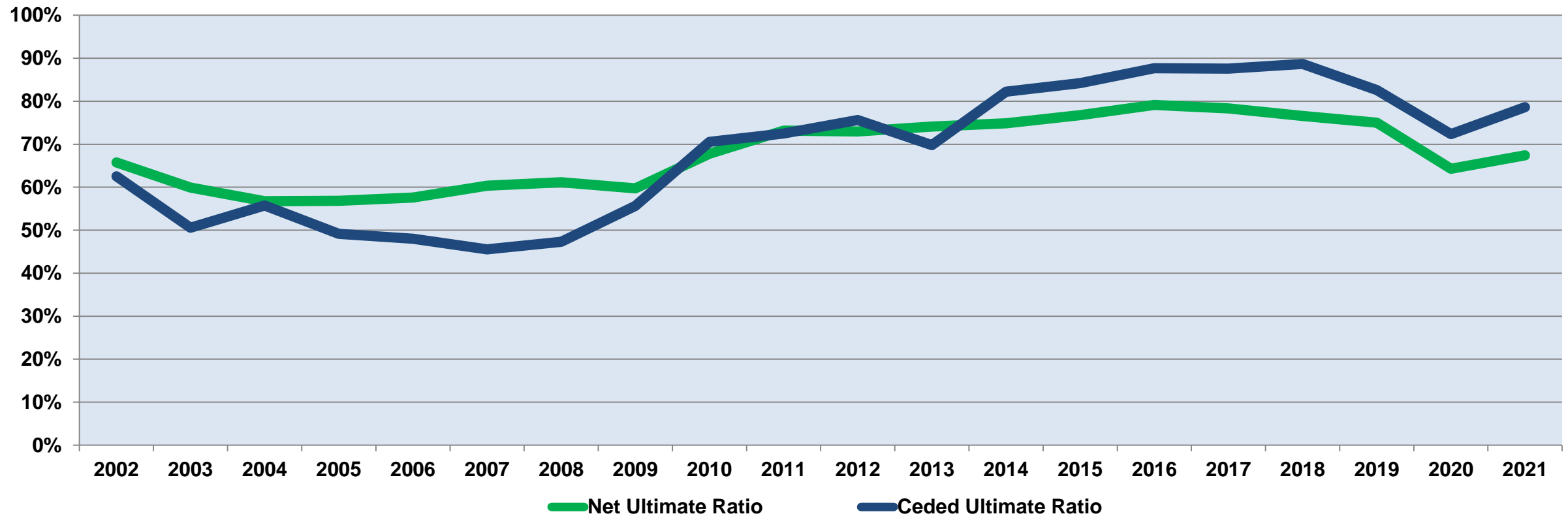
Source: Milliman closed claim database evaluated through December 31, 2019. Reflects payments on closed claims (not verdicts).

Hospital Professional Liability Large Claim History % of Closed Claims Over \$20M



Source: Milliman closed claim database evaluated through December 31, 2019. Reflects payments on closed claims (not verdicts).

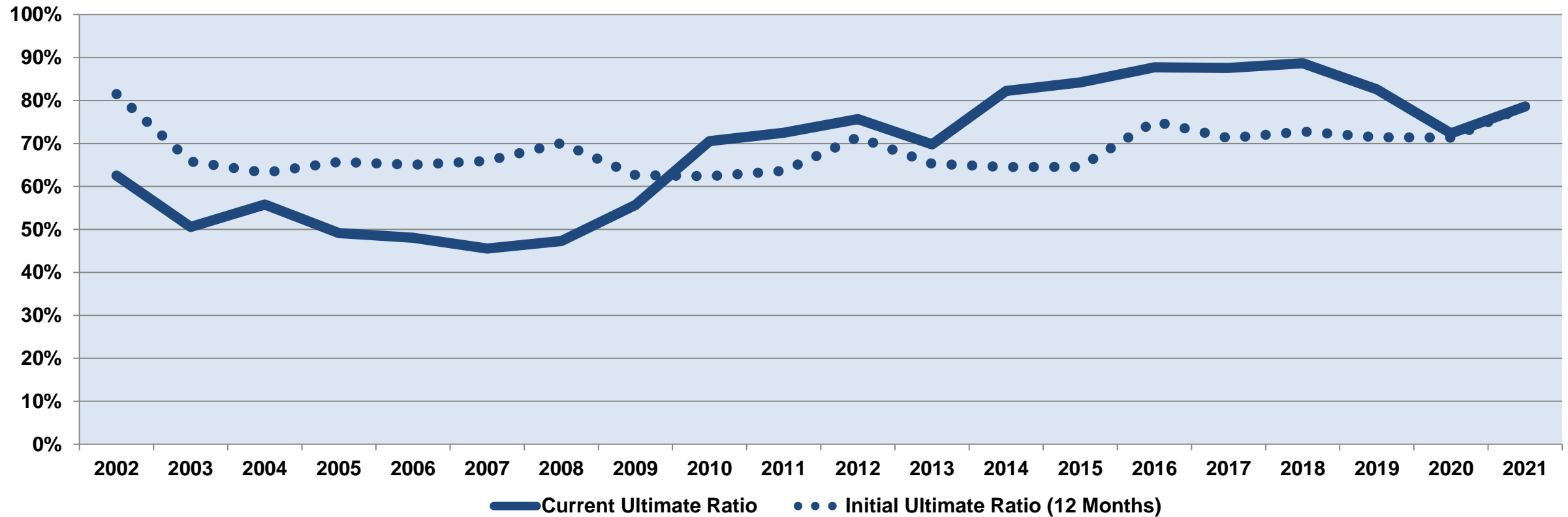
Commercial Auto Industry Net vs Ceded Results



Source: Milliman review of publicly available statutory annual statement data as of December 31, 2021 for 40 largest commercial auto writers.

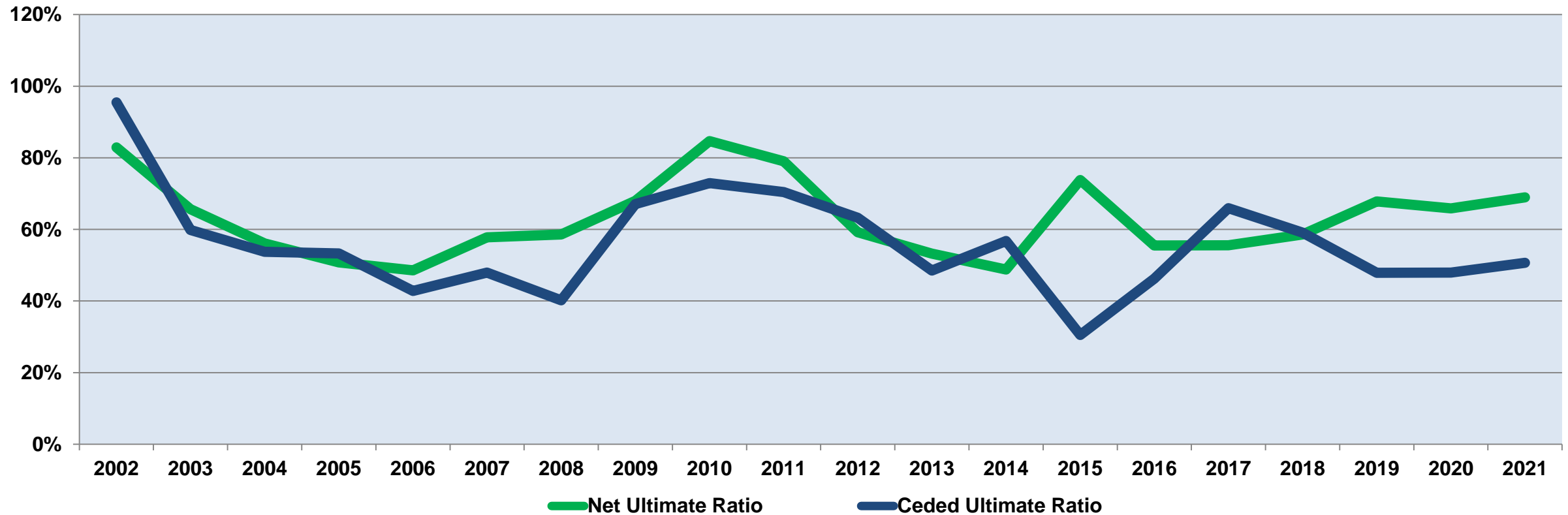
Commercial Auto Industry – Ceded Results

Initial Ultimate Loss Ratio vs Current Estimate



Source: Milliman review of publicly available statutory annual statement data as of December 31, 2021 for 40 largest commercial auto writers.

Products Liability (Occ) Industry Net vs Ceded Results

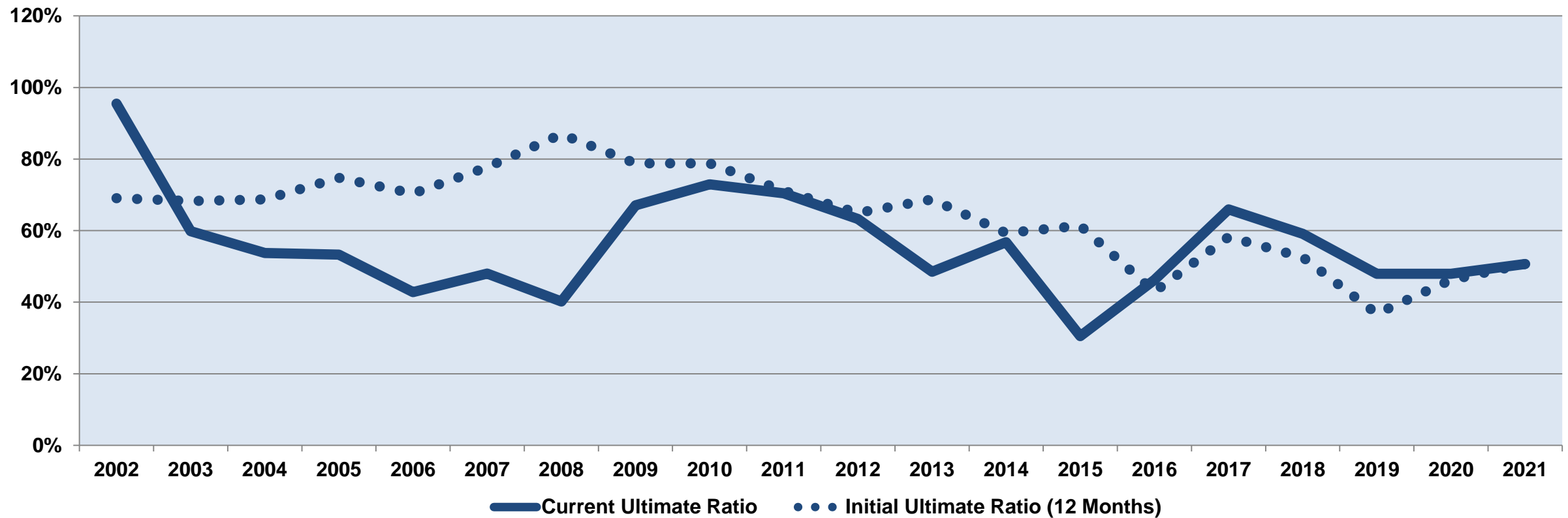


Source: Milliman review of publicly available statutory annual statement data as of December 31, 2021 for 20 largest product liability occurrence policy writers.



Products Liability (Occ) Industry – Ceded Results

Initial Ultimate Loss Ratio vs Current Estimate



Source: Milliman review of publicly available statutory annual statement data as of December 31, 2021 for 20 largest product liability occurrence policy writers.



Couple of Concerning Numbers

- For Commercial Auto, Stephanie Fox of Verisk said the average verdict for claims with verdicts above \$1 million increased ten-fold between 2010 and 2018¹
- A CAS paper by Jim Lynch and Dave Moore² projected that Social Inflation increased claims for Commercial Auto by \$20 Billion between 2010 and 2019
- When will it end?

¹ <https://www.verisk.com/insurance/visualize/curbing-social-inflation-with-litigation-technology/>

² <https://www.casact.org/abstract/social-inflation-and-loss-development>

Questions?

Brian Z. Brown, FCAS, MAAA, ARM
Milliman, Inc.
brian.brown@milliman.com

John Jacobi, PhD
Aon
john.jacobi1@aon.com

Benoit Carrier, FCAS, MAAA
Aon
benoit.carrier1@aon.com