LOB-3 Commercial Lines A Potpourri of Reserving Issues Construction Defects

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Agenda

- Main causes, issues and examples
- Coverage issues
- Basic Projection techniques
- Specific Estimation techniques

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Main Causes

- Improper Site Selection and/or Soil Preparation
- Structural Design
- Defective Building Materials
- Negligent Construction



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Main Issues

- Water Damage
- Structural Failure
- Mechanical



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EIFS

- Exterior Insulation and Finish Systems
- EIFS is an exterior wall covering system designed as an alternative to stucco.
- It uses three layers bonded together to form a barrier designed to completely seal out water.
- However, if water does seep in, it does not allow the water to drain and can lead to rotting.



Kitec

- Kitec brass pipe fittings were used to connect flexible composite pipe in homes throughout the western United States.
- When water runs through these fittings, a chemical reaction called dezincification occurs, causing corrosion which eventually blocks the pipe. This can lead to leaks and even bursting pipes.



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Chinese Drywall

- During the housing boom from 2004 to 2007, drywall was imported to the US from China due to a shortage of American made drywall.
- The drywall has been found to emit sulfurous gases which smell like rotten eggs and can cause copper pipes, wiring, and air conditioner coils to corrode.



Coverage Issues



Triggers Differ by Jurisdiction

- - The date of occurrence is when the property damage manifests is apparent.
- - All policy periods during which the property has been exposed. (often found in claims involving long-term bodily injury claims like asbestosis)
- Continuous
 - All policies in effect from the date of exposure through manifestation including all policies from construction through discovery and potentially further.
- Injury-in-Fact
 - All policies in effect when injury can be demonstrated without regard to when the damage is discovered.



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Claims Made or Occurrence

- Completed Operations Coverage
 - Like Products Liability, provides insurance for claims resulting after a construction project is completed.
- Issues
 - Different insurers over time
 - Different insurers for Primary versus Umbrella
 - Different policy conditions from year to year
 - ALAE within/without
 - SIR/Deductibles
 - Captives
 - Coverage wording



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Montrose

- 1995 the California Supreme Court ruled in Montrose Chemical Corp. v Admiral Insurance Co.

 Continuous injury trigger governs coverage under the standard CGL policy.

 Known losses can be insured as long as either the scope of damage occurring during the policy.

 - Continuous injury trigger governs coverage under the standard CGL policy.

 Known losses can be insured as long as either the scope of damage occurring during the policy
 period or the insured's ultimate liability for that damage is undetermined.
- CG 00 57 adds a third condition to section b of the Coverage A insuring agreement.

 - 30 37 adds a tind condition to Section 10 of the Coverage A misstring agreement, and insured listed under Paragraph 1. of Section II-Who is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" courred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed and the property damage.
- Colorado HOUSE BILL 10-1394 (new)
 - Faulty workmanship constitutes an "occurrence" and that claims for faulty workmanship fall within a general liability policy's insuring agreement.



Statute of Limitations/Repose

- Statute of Limitation
 - A type of federal or state law that restricts the time within which legal proceedings may be brought. These vary by state.
- Statutes of Repose
 - Statutes of repose terminate a manufacturer's liability for defective products after a statutorily specified number of years. A person injured after the cut-off date has no recourse to hold the manufacturer of the defective product accountable. These also vary by state.
- A statute of limitation may apply to bar lawsuits a set number of years after the product causes an injury; but a statute of repose may also apply, barring an action after a certain number of years from the date when the product was initially delivered.



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Basic Projection Techniques



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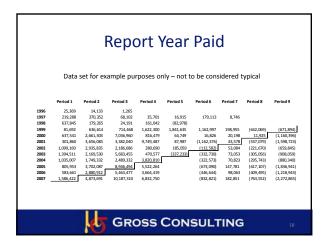
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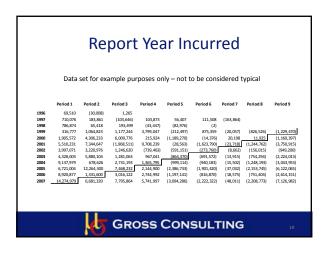
Data set for example purposes only – not to be considered typical

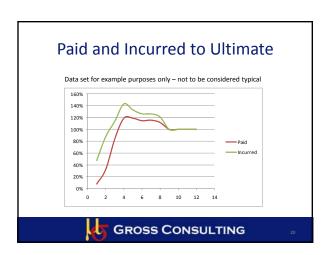


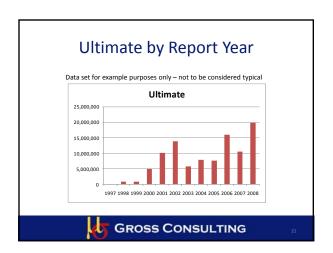
Accident Year Incurred Data set for example purposes only – not to be considered typical Period 1 Period 2 Period 3 Period 4 Period 5 Period 5 Period 7 Period 9 Period 10 Period 11 Period 11 1997 (1997)

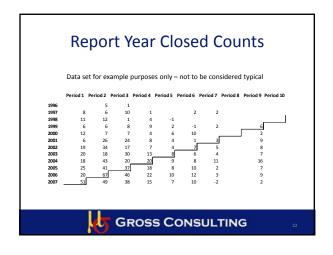
Selected Ultimate Data set for example purposes only – not to be considered typical Vear LR 1996 58% 1997 90% 1998 60% 1999 33% 2000 24% 2001 37% 2002 25% 2003 57% 2004 20% 2005 12% 2006 14% 2007 20%

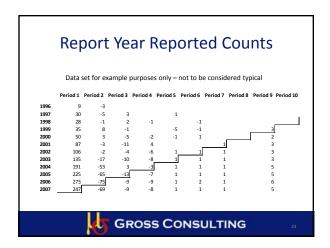




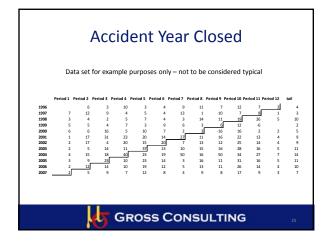


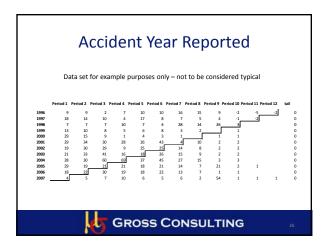


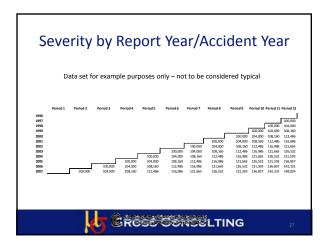












Accident Year Ultimate

- Current Case Incurred
- Case Development from the Report Year analysis – allocate to Accident Year
- True IBNR from Frequency-Severity process



New Specific Issues

Early Days

- No known claims
- Severity may be determinable/homogeneous
- Potential for lack of coverage
- Hits the entire diagonal at once
- Do you include in overall data in the future



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Exposures – Home Counts

Adjustment:	20%	40%	60%		Adjusted
	2006	2007	2008	Total	Total
State 1	1,096	2,103	1,734	4,933	2,101
State 2	4	9	6	19	8
State 3	1,448	1,466	582	3,496	1,225
State 4	3,572	5,180	3,115	11,867	4,655
State 5	3,613	4,408	2,566	10,587	4,025
State 6	2,389	4,275	2,425	9,089	3,643
Total	12 122	17 ///1	10 /28	30 001	15 658



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Industry Data

- Method 1: CPSC.gov Drywall Information Center
- Method 2: Import data (100,000 total homes)
- Method 3: Import data (36,000 total homes)

	Method One		Method 2		Method 3		nod 3	
	Industry	Allocate	Company	# Homes	Company		# Homes	Company
	Reported	Impacted	Market	Imported	Market		Imported	Market
	Incidents	Home #	Share	by State	Share		by State	Share
State 1	669	19,060	381		-		3,431	69
State 2	227	6,467	129		-		1,164	23
State 3	194	5,527	111		-		995	20
State 4	249	7,094	142	14,500	290		3,887	78
State 5	2,031	57,863	1,157	85,000	1,700		25,715	514
State 6	140	3,989	80	500	10		808	16
Total	3,510	100,000	2,000	100,000	2,000		36,000	720



Frequency / Severity

	Average		Adjusted	Per	Estimated
	of Three	Total	Market	Claim	Gross of
	Methods	Adjustment	Share	Cost	Ded Claims
State 1	150	43%	64	100,000	6,400,000
State 2	51	42%	21	100,000	2,100,000
State 3	43	35%	15	100,000	1,500,000
State 4	170	39%	67	100,000	6,700,000
State 5	1,124	38%	427	100,000	42,700,000
State 6	35	40%	14	100,000	1,400,000
Total	1,573	39%	608		60,800,000



Added Adjustments

- Coverage triggers
 - Manifestation states with expiring/new policies
- How does the Pollution Exclusion apply
 - There may only be LAE in some states
- How does ALAE apply
- How do policy deductibles apply
- How do claims/claimants work in these states and for this policy
- How do policy aggregates apply
- Potential for BI Exposure



