



How Disproportionate Is Florida's Litigation Problem? The Job Facing Legislators

By Guy Fraker

Much has been said, and debated, about the National Association of Insurance Commissioners reports stating Florida's national market share of residential property insurance litigation. Using 2019 data, in combination with a market conduct survey, the first observation indicated that Florida's 74,210 lawsuits represented a 76.45 percent market share. When Florida's Commissioner David Altmaier cited this metric in his April 2, 2021 letter to Florida's House, the subsequent reactions were illuminating. Until the recent Special Session, May 2022, little urgency addressing these statistics emerged. [Notable exceptions conveying needed urgency included Florida Sen. Jeff Brandes, Sen. Jim Boyd, Demotech's Joe Petrelli, Citizens Property Insurance Company CEO Barry Gilway, and Commissioner David Altmaier.]

During Q1 2022, Florida's updated national share of residential property insurance litigation was quoted as 80.20 percent, based on year end 2020 figures published by the Insurance Information Institute and reported by NPR. Florida's residential insurance litigation grew by 29.5 percent throughout 2020, resulting in 95,872 suits. In the wake of reform measure SB 76 in July, 2021, hampered by limited implementation, lawsuits grew by

12.9 percent in 2021, to 107,585. In other words, 2021 ended with Florida holding an 81.25 percent national share of residential property insurance litigation despite Florida possessing but 9 percent of the nation's unresolved residential property insurance claims.

The remarkable and unsettling nature of these metrics presents a compelling case for a deeper examination in order to begin addressing questions such as, what does a national share exceeding 80 percent really mean? How could these circumstances have come to pass? How can the economic impact of such litigation be quantified? Finally, if Florida as a single state holds an 81.25 percent national share, and 49 other states hold the remaining 18.75 percent, how many of Florida's claim disputes are potentially manufactured or manipulated?

Florida's Department of Financial Services has three data collection mechanisms designed to capture and report on Florida's insurance litigation activity, covering all lines of insurance. Without question Florida has the most transparent and comprehensive insurance litigation reporting systems in the country. This means national examination is challenged by the lack of equivalent capabilities among the remaining 49 states. However,

Range of estimated unexpected Florida claim disputes. Estimates Based on Maximum Market Share Values	Expected Insured Loss Disputes	Unexpected Loss Disputes
If Florida's expected loss-related disputes equaled the average of the next top 3 states, then.....	3,264	104,321
If Florida's expected loss-related disputes equaled the aggregated sum of 7 hurricane prone states , then.....	6,710	100,875
If Florida's expected loss-related disputes equaled the aggregated total of the next top 3 states , then.....	9,793	97,792
If Florida's expected loss-related disputes equaled the aggregated sum of the 7 hurricane-prone states + the top 3 states, (including Texas twice) then.....	16,502	91,083
If Florida's expected loss-related disputes equaled the aggregated total of the remaining 49 states , then.....	29,812	77,773



what if this 81.25 percent/18.75 percent split is combined with other established market share statistics? Might clarity emerge relevant to developing real solutions? In order to begin, what is known?

- 107,585 suits is an estimated 81.25 percent national share of loss-based litigation.
- 18.75 percent national share represents 24,827 suits distributed over 49 states.
- State-by-state metrics exist from reputable sources on:
 - o Residential insurance direct written premiums
 - o Residential insurance paid losses.
- These state-by-state measures easily convert into market share metrics.

In summary, state-based premium and paid loss measures are converted into market share metrics. These market share statistics are then applied to the 18.8 percent share of residential insurance lawsuits using the aggregated case count of 24,487. The results hold significant implications worthy of consideration by legislators, insurers, regulators, reinsurers, and insurance investors, nationwide. With a long history supporting insurance market stability since 1989, Demotech was the first to share insights on the disparate, disproportionate litigation.

These statistics support significant inferences. To be a viable insurance market, specific conditions must exist. The bullets indicate whether each required condition exists in Florida.

- ∅ Actuarial practices should be able to quantify a range of reasonable certainty with respect to loss frequency.
- ∅ Actuarial practices should be able to quantify a range of reasonable certainty with respect to loss severity.
- ∅ Reinsurance premiums and basic availability cannot reflect stability in the absence of certainty.

These basic requirements create a marketplace where:

- ∅ Insurance consumers have access to insurance; access being reliability, affordability, availability, and being adequate to their needs.
- ∅ Insurance companies fulfill a basic mission by providing adequate protections that are reliable, affordable, and available.
- ∅ Insurance companies fulfill an essential economic mission of enabling economic growth in markets.

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2021 Lawsuits Per State			
State	2021 Annual Total Residential P&C Claim Litigation	ONE Lawsuit Per "X" Residents	U.S. Market Share of HO Insurance Litigation
Florida	107,585	205	81.2%
Alabama	435	11,542	
Alaska	46	15,846	
Arizona	415	17,218	
Arkansas	249	12,098	
California	3,959	9,986	
Colorado	764	7,557	
Connecticut	333	10,831	
Delaware	58	16,927	
Georgia	968	11,069	
Hawaii	73	19,961	
Idaho	121	15,195	
Illinois	1,125	11,381	
Indiana	452	15,025	
Iowa	369	8,855	
Kansas	241	12,200	
Kentucky	278	16,203	
Louisiana	623	7,478	
Maine	93	14,658	
Maryland	469	13,167	
Massachusetts	535	13,143	
Michigan	708	14,237	
Minnesota	579	9,859	
Missouri	224	13,194	
Mississippi	533	11,552	
Montana	95	11,373	
Nebraska	239	8,198	
Nevada	186	16,667	
New Hampshire	82	16,842	
New Jersey	706	13,154	
New Mexico	149	14,247	
New York	1,577	12,806	
North Carolina	87	15,561	
North Dakota	671	8,952	
Ohio	629	18,754	
Oklahoma	336	11,767	
Oregon	299	14,187	
Pennsylvania	865	15,026	
Rhode Island	96	11,484	
South Carolina	387	13,219	
South Dakota	102	8,684	
Tennessee	544	12,709	
Texas	2,589	11,257	
Utah	182	17,657	
Vermont	42	15,400	
Virginia	567	15,221	
Washington	466	16,531	
West Virginia	100	17,898	
Wisconsin	356	16,540	
Wyoming	60	9,545	18.8%

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