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Emerging Risks Facing the Ready Mix Industry

TUESDAY / **SEPTEMBER 1** / 11AM-12PM CST

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Risk Management Consultant
Cottingham & Butler

Housekeeping Items

- All attendees are in “LISTEN ONLY” mode.
- You can type in questions using the question tab within the GoToWebinar panel.
- Q&A at the end of the webinar.
- Additional questions can be emailed to: JGlenn@cottinghambutler.com
- A recorded copy of the webinar and slides will be made available to all attendees.

Who is Cottingham & Butler?

1. Privately held - established in 1887
2. Headquarters in Dubuque, IA
3. Over 3,500 client's nation wide
4. 1,300+ employees (+850 in Dubuque)
5. 95% retention rate across entire book of business
6. Clients in 48 states, ranging from Florida to Alaska, Maine to California

READY MIX EXPERTISE

Insure over 2,500 Mixer Trucks, $16M in Premium

Safety Company w/ focus in Heavy Fleet Safety and Compliance (DOT & OSHA)

Proprietary safety assessment proven to lower Total Case Incident Rate (TCIR)

75% of C&B's book of business consists of captive insurance or alternative risk transfer programs

Learning Objectives

1. **Understand the drivers behind rising liability costs and what this means for future renewals**

2. **Identify where product liability exposure for concrete falls outside a General Liability policy, and what coverage options exist to fill the gap**

3. **Recognize how Nuclear Verdicts and Third-Party litigation funding are changing claim severity, and which states are enacting reforms**

4. **Evaluate practical risk mitigation strategies you can put in place to reduce exposure before a claim occurs**

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Understand the drivers behind rising liability costs and what this means for future renewals

STATE OF THE INSURANCE MARKETPLACE

- **We are coming out of the 'hard' insurance marketplace conditions that we have been experiencing for several years.**

- **Property marketplace is now competitive after being in a hard market for years.**

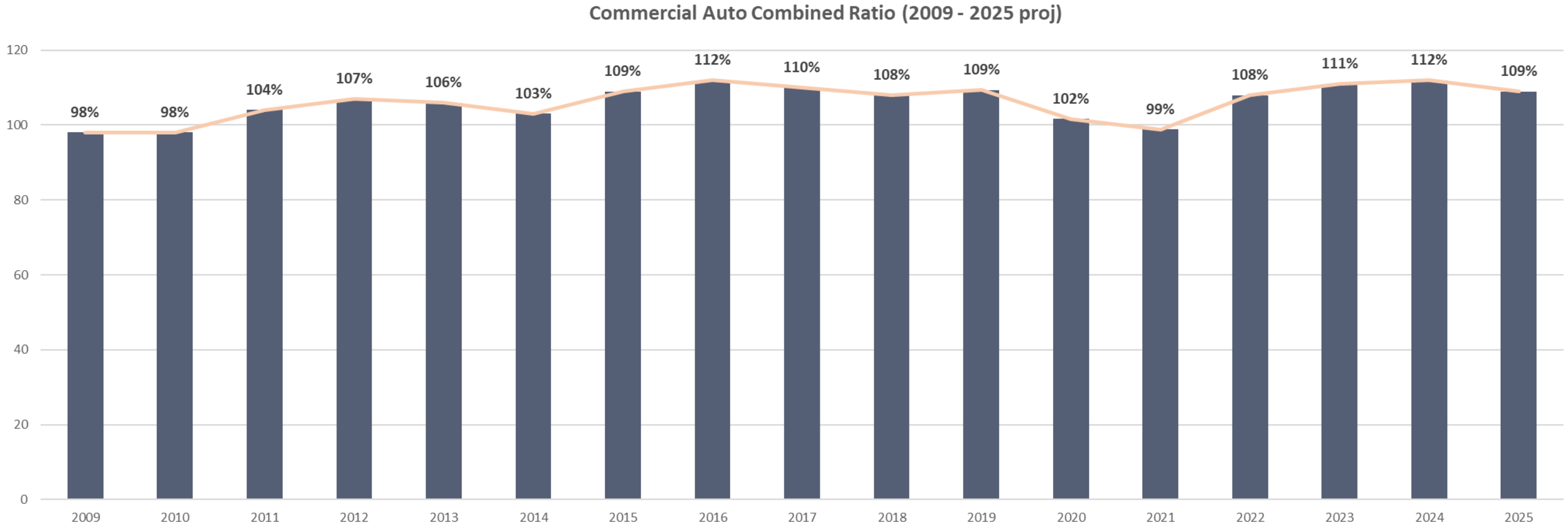
- **There is finally light at the end of the tunnel, but <u>market rate increases continue for Auto and Umbrella</u> (Your biggest exposure)**

WHAT'S DRIVING THE INCREASED LIABILITY COSTS?

$$\text{Combined Ratio} = \frac{\text{Incurred Losses + Expenses}}{\text{Earned Premium}}$$

Commercial Auto

- Insurance carriers continue to be unprofitable (14 of past 15 years), even when they are delivering double-digit rate increases at your renewal.
- 2025 Commercial Auto **Combined Ratio of 109%**
- Carrier profitability improvement is expected.



Source: Commercial Auto Year-End Data from A.M. Best / S&P Global Market Intelligence

Understand the drivers behind rising liability costs and what this means for future renewals

WHAT'S DRIVING THE INCREASED LIABILITY COSTS?

Umbrella

Nuclear Verdicts

Social Inflation

Third-Party Litigation Funding

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What Does this mean for Future Renewals?

WHAT DOES THIS MEAN FOR FUTURE RENEWALS?

If you are in a **guaranteed cost program**...

- Expect increases across liability lines to continue
- Auto (+4-8% range), GL (+2-5%), UM (+8-10%)
- Carriers will limit appetite for ready mix...some may leave the marketplace

If you are in a **loss-sensitive program** (Captive, Retro, Lg Ded. Etc.)

- You have more control over your rates, but you are still impacted by nuclear verdicts, social inflation, TPLF
- Most purchase Umbrella monoline, prepare for carriers to lower capacity or demand premium increases
- What is your safety provider and TPA doing to combat emerging risks?

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PRODUCT LIABILITY EXPOSURE

Major Product Liability Risks

- Structural Failure
- Financial Costs Incurred
- Sever Injuries Occur

Within your contracts, do you know how much liability you are taking on for YOUR product?

Contractors are most likely trying to transfer as much risk to suppliers/subs

Recommendation: Review a recent contract with your attorney and identify how much liability you assume, and what amount of risk you can transfer.

Claim Example:

You the concrete supplier pour a bridge deck. Concrete is found to be faulty after construction. No property damage. No bodily injury. Concrete needs to replaced. Costs incurred.

Identify where product liability exposure for concrete falls outside a General Liability policy, and what coverage options exist to fill the gap

WHERE DOES YOUR GL POLICY FALL SHORT?

There must be property damage and/or bodily injury for General liability to respond.

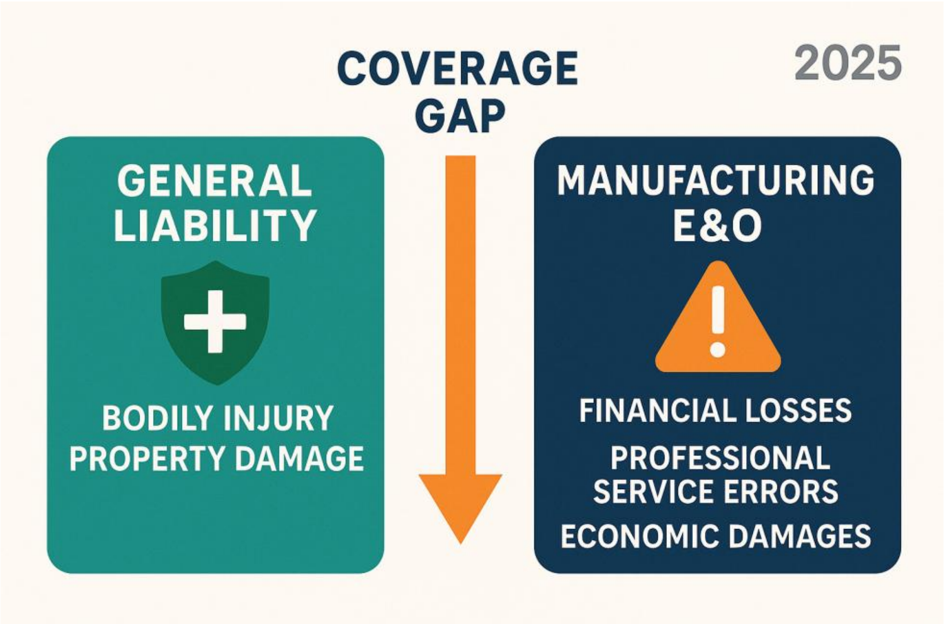
General Liability is a "Catch All" line of coverage

FILLING THE COVERAGE GAP

Manufacturer's E&O responds to financial damages an insured is legally obligated to pay a third party due to negligence in the design or manufacturing of their own product – **regardless of a property damage or bodily injury trigger.**

What It Covers:
- Financial Loss
- Legal Defense
- Contract Failures

3rd Party Coverage



https://www.amwins.com/resources-and-insights/market-insights/article/why-manufacturers-need-e-o-coverage

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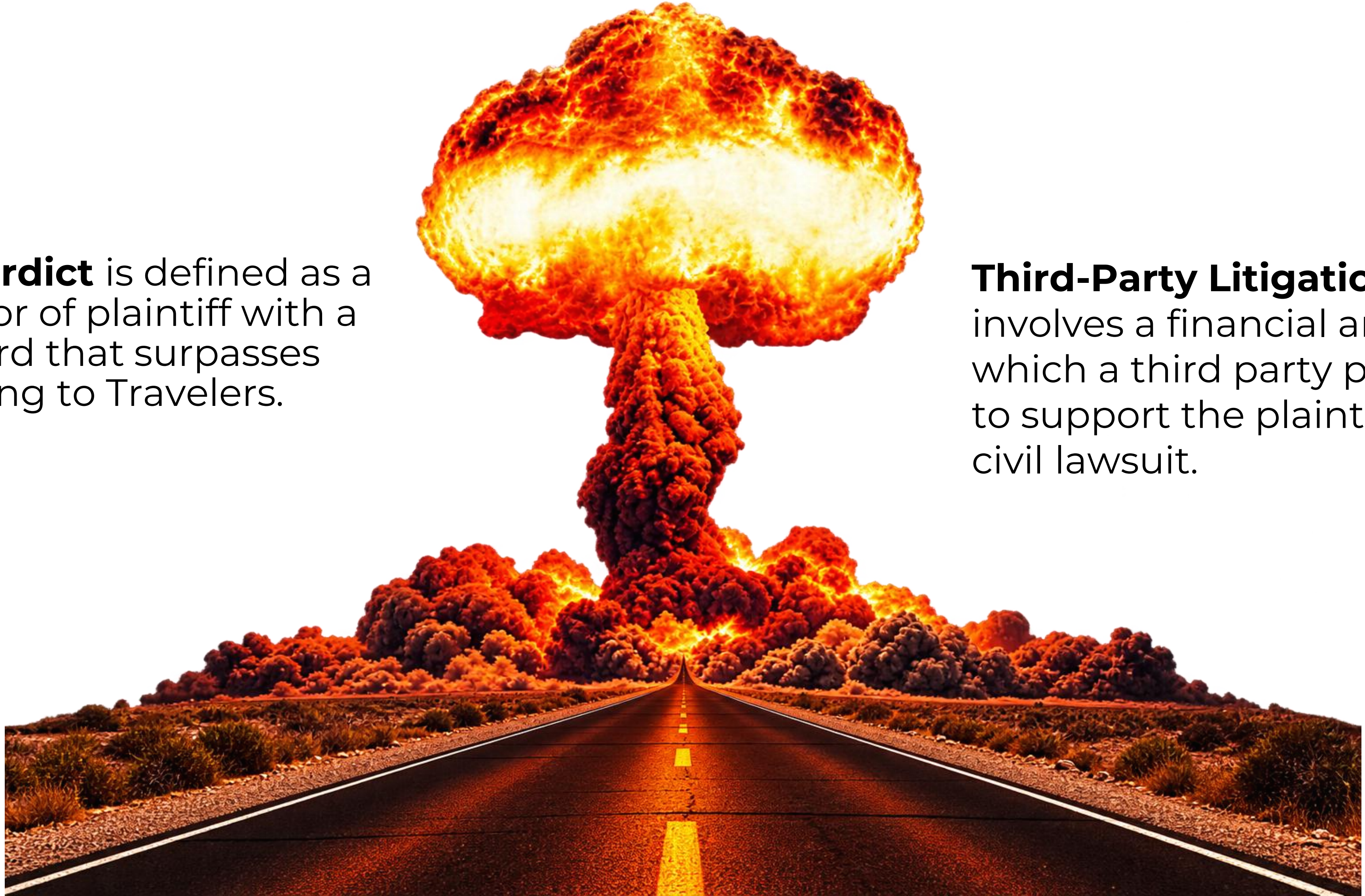
NUCLEAR VERDICTS | 3RD PARTY LITIGATION FUNDING

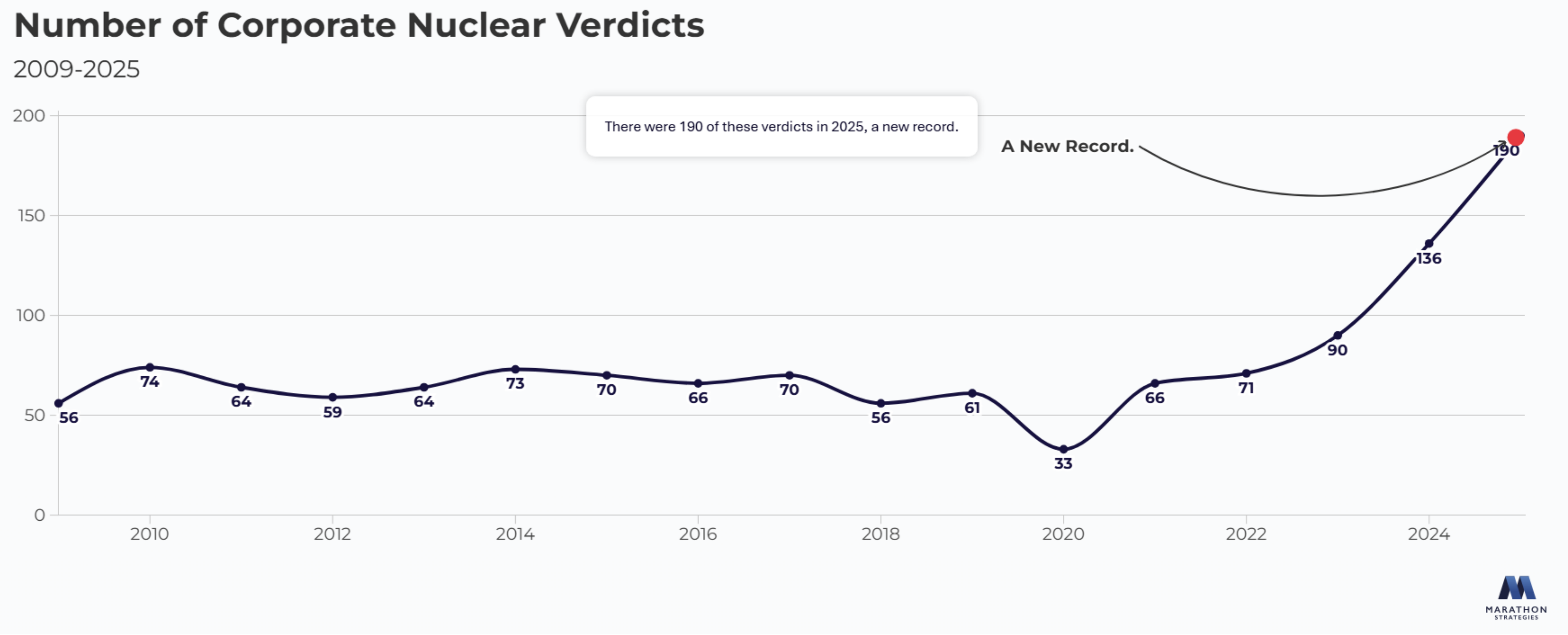
A **Nuclear Verdict** is defined as a verdict in favor of plaintiff with a damage award that surpasses $10M according to Travelers.



Third-Party Litigation Funding involves a financial arrangement in which a third party provides funding to support the plaintiff's pursuit of a civil lawsuit.

Recognize how Nuclear Verdicts and Third-Party litigation funding are changing claim severity, and which states are enacting reforms

NUCLEAR VERDICTS



Marathon Strategies Report 2026 Edition

Recognize how Nuclear Verdicts and Third-Party litigation funding are changing claim severity, and which states are enacting reforms

NUCLEAR VERDICTS

TOTAL AWARDS

$241,015,900,621

AFFECTED INDUSTRIES

136

TOTAL CASES

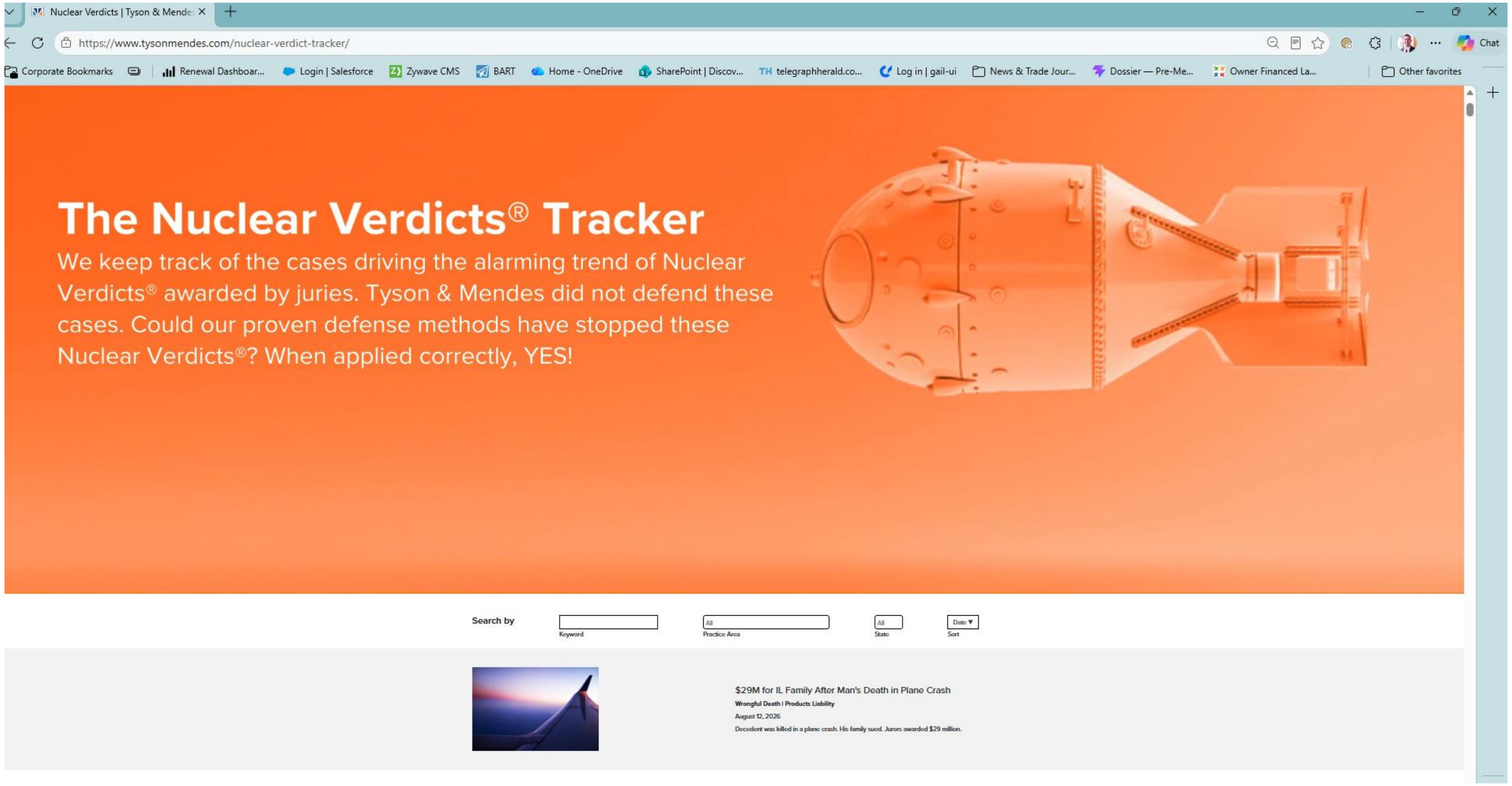
1299

Recognize how Nuclear Verdicts and Third-Party litigation funding are changing claim severity, and which states are enacting reforms

NUCLEAR VERDICTS

TYSON & MENDES

https://www.tysonmendes.com/nuclear-verdict-tracker/



Third-Party Litigation Funding (TPLF)

New capital commitments in the U.S. commercial litigation finance market increased approximately 23% in 2025

The Westfleet Insider: 2025 Litigation Finance Report

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4 Focus Areas

Tort Reform/Legislative Changes

Defense Bar needs to catch up.

Loss Prevention

Hiring/Equipment/Cameras/Training

Transparency! (The good AND bad)

Education for Drivers

Timely Reporting

Claims Strategy

Aggressive claims handling, negotiation, and settlement strategies to close claims before they become nuclear.

Alternative Risk Transfer

Captives / Group Captives

Large Deductible Programs

Self-Insured Retentions (SIRs)

Parametric & Structured Risk Solutions

Greater Control Over Long-Term Insurance Costs

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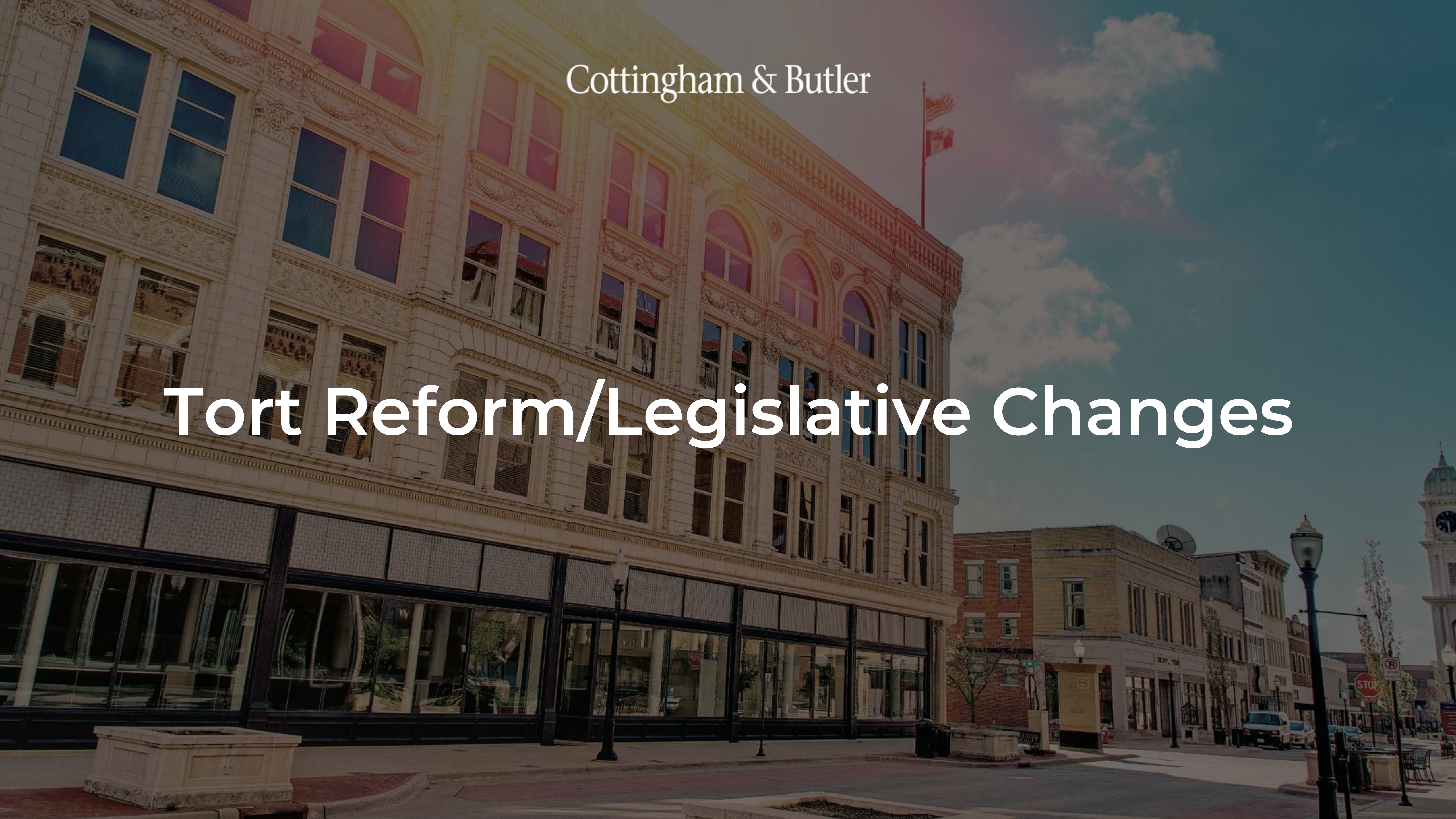
Tort Reform/Legislative Changes



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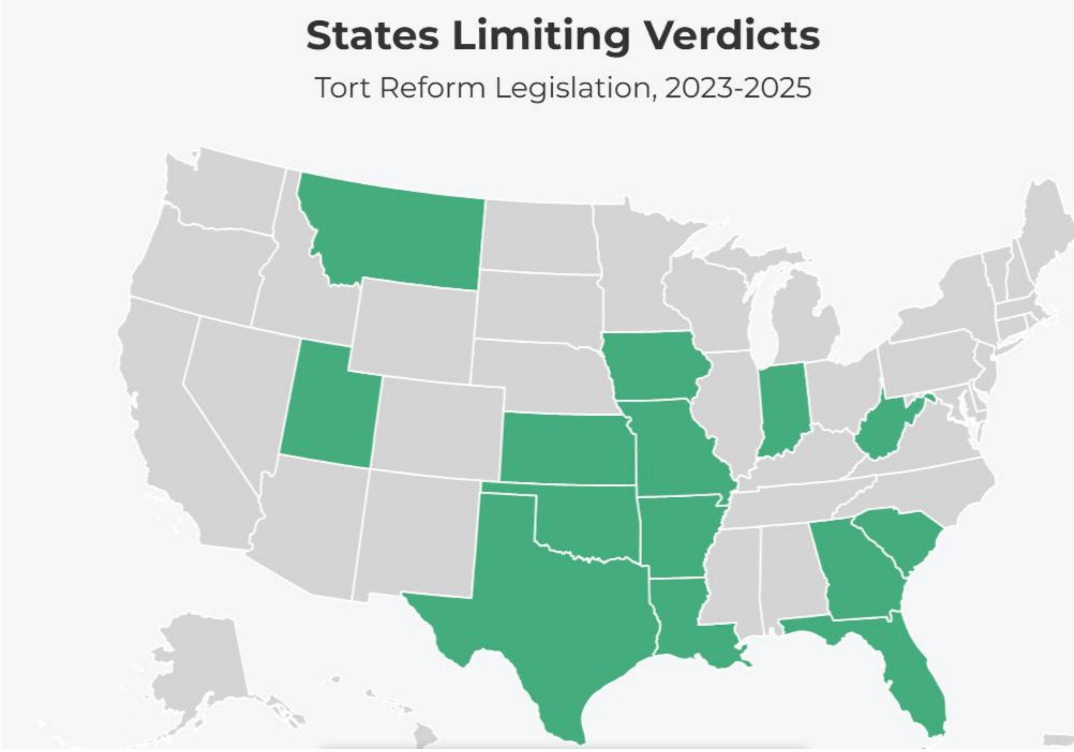
STATES LEADING THE CHARGE IN LEGISTLATIVE REFORM




North Carolina Becomes First State to Pass Outright Ban on Litigation Financing


Senate Sidelines Tax on Litigation Finance, But the Fight Goes On

The industry dodged a bullet, but the push for regulation is only gaining speed.

STATES LEADING THE CHARGE IN LEGISTLATIVE REFORM

The State of Colorado has enacted a bill that requires a third-party litigation funder that enters into litigation financing agreement must disclose and submit certain information to the Colorado attorney general.

Failure to disclose required info or attempting to use a domestic front entity is now viewed as a deceptive trade practice.

Failure to do so would lead to a fine of $20,000 per violation.

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Loss Prevention

Evaluate practical risk mitigation strategies you can put in place to reduce exposure before a claim occurs

MEASURABLE Safety Involvement

Evaluate practical risk mitigation strategies you can put in place to reduce exposure before a claim occurs

MEASURABLE Safety Involvement

- Process
  - Annual scored audit
  - Evaluate 4 sub-systems
    - Management Support
    - Regulatory Compliance (OSHA)
    - Fleet Safety (as applicable)
    - Facility Inspection
  - Based on "best practices" within the industry
- Benefits
  - Blueprint/Action plan for improvement
  - Accountability system for all departments
  - Status/implementation of recommendations will be reviewed within 6 months

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TRANSPORTATION GROUP RISK MANAGEMENT TRIBAL CONSULTING EMPLOYEE BE

DIT HOME MANAGEMENT SUPPORT AND LEADERSHIP FACILITY INSPECTION FLEET SAFE

EVALUATION PROFILE

Management Support and Leadership	Points: Possible	Points: Actual
I. Management Responsibility	190	160
II. Safety Communication	110	73
III. Safety Committees	100	80
IV. Accident Investigation & Prevention	110	100
V. Employee Orientation	50	50
VI. Contractor Safety	20	18
VII. Incidental Fleet Safety Controls	20	20
CATEGORY TOTAL:	600	501

Regulatory Compliance	Points: Possible	Points: Actual
VIII. Occupational Safety & Health Compliance	140	122
CATEGORY TOTAL:	140	122

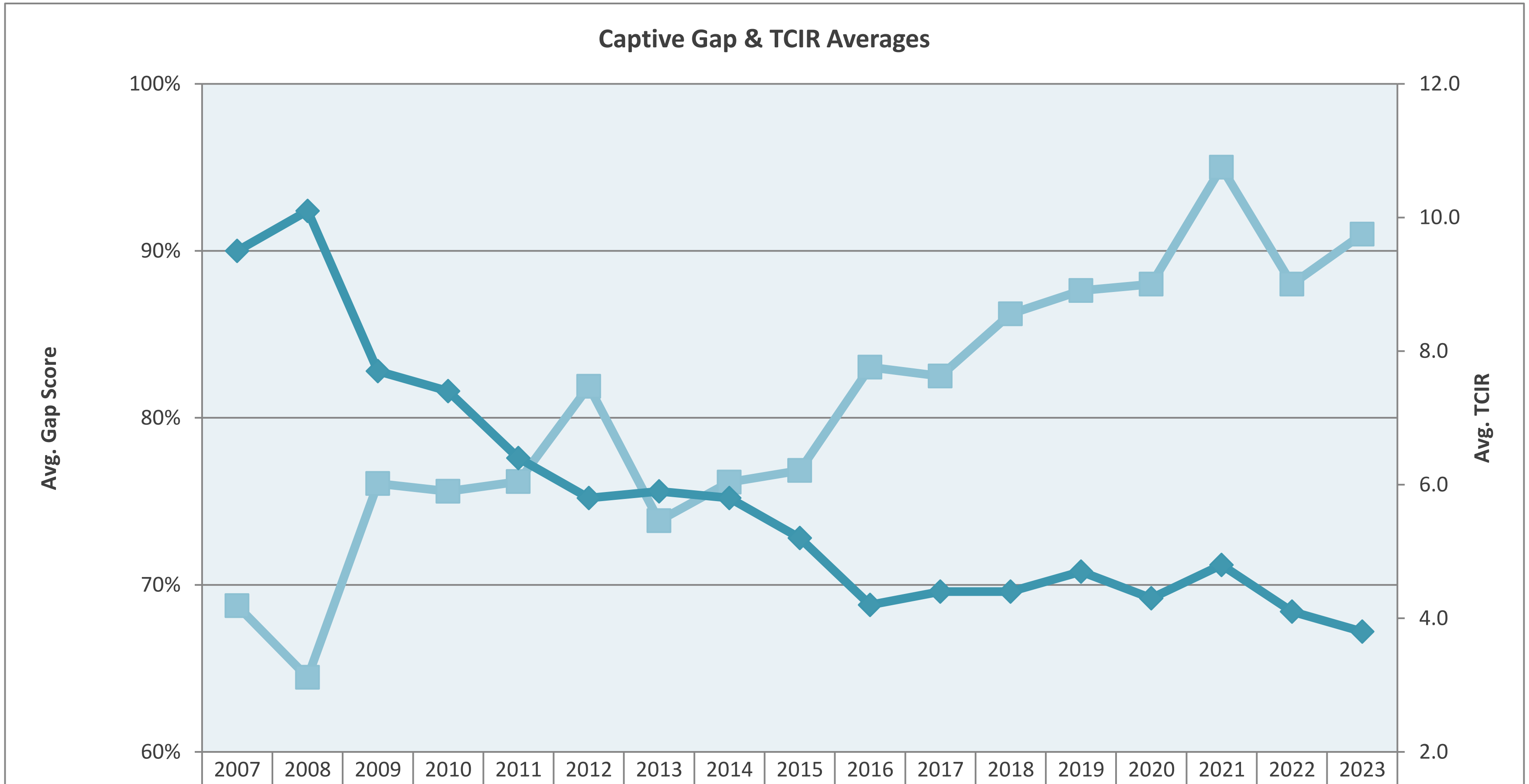
Fleet Safety	Points: Possible	Points: Actual
IX. Commercial Motor Vehicle Fleet Safety	130	128
CATEGORY TOTAL:	130	128

Facility Inspection	Points: Possible	Points: Actual
X. Walking/Working Surfaces		0
XI. Machine Guarding		0
XII. Hand & Powered Tools		0
XIII. Electrical Systems		-30
XIV. Means of Egress		-5
XV. Emergency Equipment		0
XVI. Hazardous Materials		0
XVII. Powered Industrial Trucks (Forklifts)		-5
XVIII. Personal Protective Equipment (PPE)		0
XIX. Lockout/Tagout		0
XX. Confined Space Entry		0
XXI. Not Otherwise Classified (NOC)		0
CATEGORY TOTAL:	500	460

	Possible	Actual
GRAND TOTAL:	1,370	1,211

Evaluate practical risk mitigation strategies you can put in place to reduce exposure before a claim occurs

MEASURABLE Safety Involvement



	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Gap Score	69%	64%	76%	76%	76%	82%	74%	76%	77%	83%	83%	86%	88%	88%	95%	88%	91%
TCIR	9.5	10.1	7.7	7.4	6.4	5.8	5.9	5.8	5.2	4.2	4.4	4.4	4.7	4.3	4.8	4.1	3.8

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Claims Strategies

Evaluate practical risk mitigation strategies you can put in place to reduce exposure before a claim occurs

CLAIMS STRATEGIES TO DEPLOY

First Call Settlement

Program designed to resolve injury claims within hours of the accident.

Nurse Case Management

CBCS Nurse Case Management review of medical packages to ensure usual, customary, and reasonable medical care.

Internet Mining & Surveillance

Early investigation techniques including the mining of social media, internet records, and background information.

FIRST CALL SETTLEMENT AUTHORITY: OVERVIEW

Program designed to resolve injury claims within hours of the accident

Settlement authority provided can be used by the adjuster to resolve injury claims during the first phone call with the claimant

Significant savings by avoiding increased medical treatment and/or attorney involvement

A closed claim is a good claim.

FIRST CALL SETTLEMENT AUTHORITY: CASE STUDY

Facts of Case: Insured driver made improper lane change and struck claimant vehicle. Claimant had to be cut out of vehicle and was taken to hospital via ambulance. Claimant reported soft tissue soreness to neck and back.

Reported Date: 10/18/2022

Venue: Indiana

Liability: Unfavorable

Progressive Action: On 10/19/2022, the adjuster reached out to claimant to take a statement and offered a first call BI settlement of $4,000. The claimant accepted the offer, signed the release, and check was issued.

FIRST CALL SETTLEMENT AUTHORITY:
CASE STUDY

- 2016 accident with similar damage.
- Same facts of loss and same state (Indiana) as the prior slide.
- Claimant transported from the scene with soft tissue injuries.
- 57 year old electrician underwent surgery (cervical fusion and rotator cuff). History of upper extremity pain and soreness. $400k+ in meds and lost wages.
- **Settled for $775,000.**
- Average litigated claim cost in Indiana: $121,660.


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Alternative Risk Financing

Alternative Risk Transfer

- Alternative Risk Transfer Programs grant you greater control over premiums, claims, and offer better safety resources
- Remaining in the standard market you are assuming two things:
    1. Rates will get better
    2. Provided claims handling and safety offerings is good enough

What's available in the marketplace?

Low Risk ⟵⟶ High Risk

Guaranteed Cost	Group Captive	Retrospective	Large Deductible	Self Insurance
No Retention	Retention Varies	Retention Varies	$250,000 Retention	$500,000 Retention (minimum)
Risk Retained: none	Risk Retained: moderate	Risk Retained: moderate high	Risk Retained: moderate high	Risk Retained: moderate high
Volatility: low	Volatility: moderate	Volatility: moderate	Volatility: high	Volatility: high
Cash Flow: low	Cash Flow: low	Cash Flow: low or high	Cash Flow: low or high	Cash Flow: high
Security: none	Security: required	Security: low	Security: high	Security: moderate

Alternative Risk Transfer

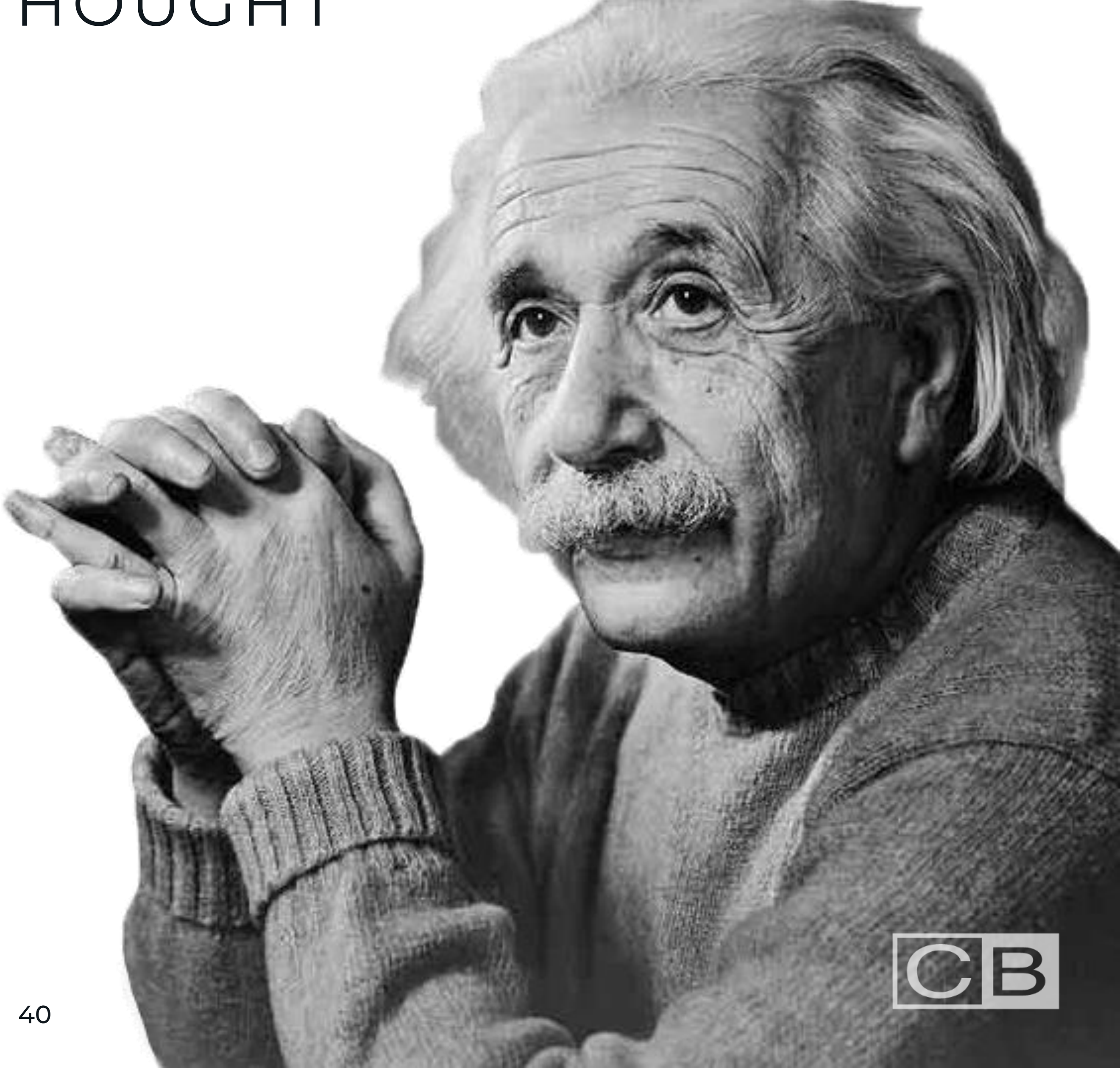
The best risks are leaving the market and will not return – leaving an adverse selection that may affect those that remain.

Approximately 90% of Fortune 500 companies are in the captive market. **Today, there are over 7,000 captives globally compared to roughly 1,000 in 1980.**

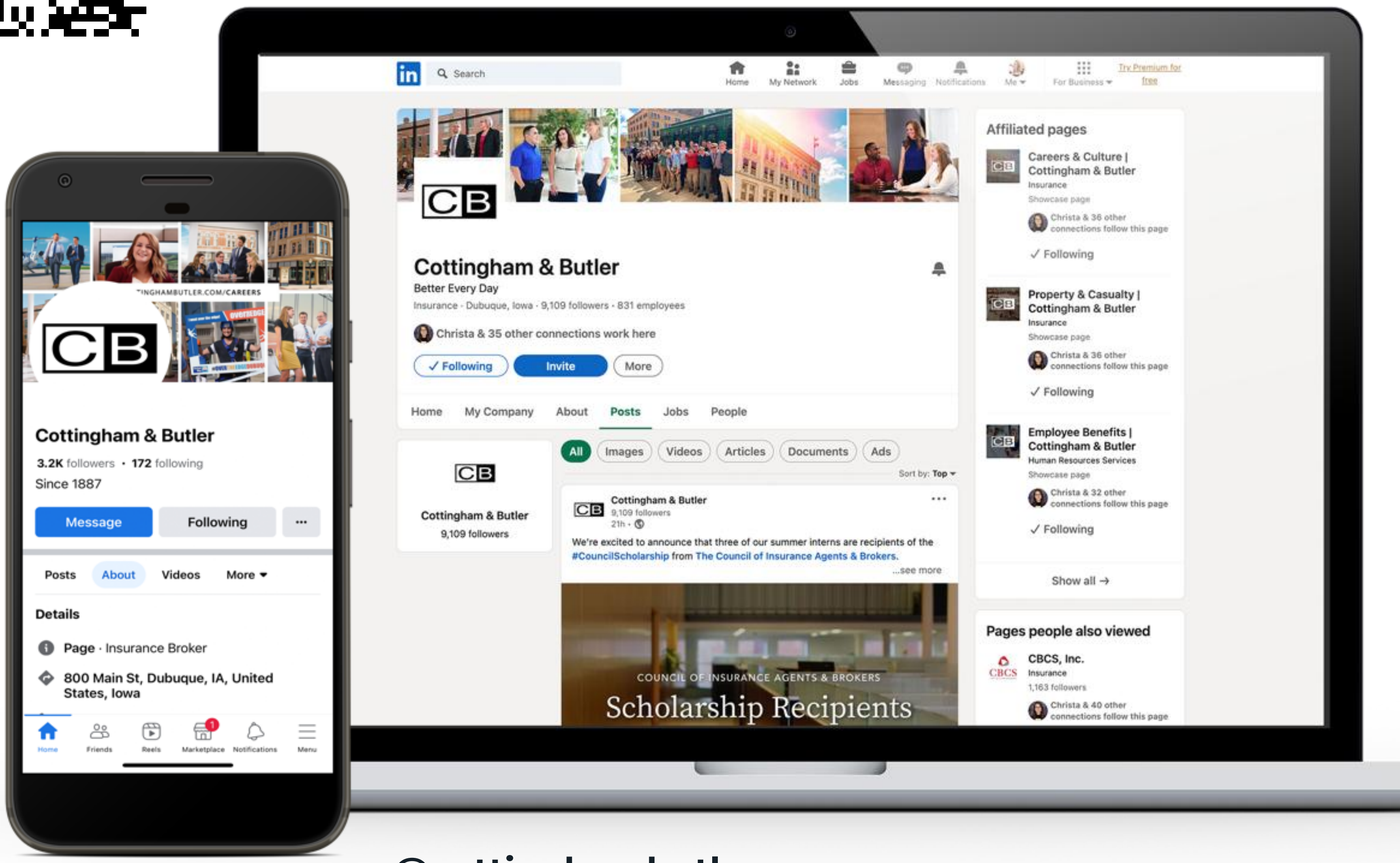
FINAL THOUGHT

Insanity is doing the same thing over and over again and expecting different results.

- ALBERT EINSTEIN



Let’s Stay Connected



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Questions

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