



Skyrocketing Liability Verdicts

AGRIp Governance Conference

March 4, 2020

Orlando

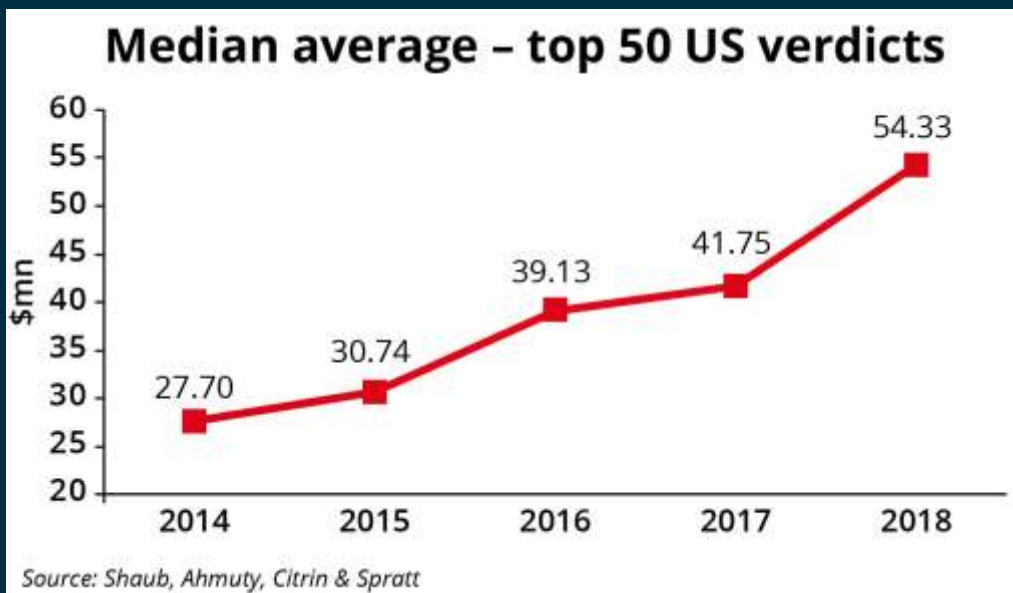


2

Alliant

**“The situation is quite simple. Insurers have significantly underpriced casualty business for the past 10 years.”
-Stephen Catlin**

Social Inflation



Recent Large Verdicts



\$2 Billion



\$4.69 Billion



\$157 Million



\$800 Million

Large Public Entity Verdicts/Settlements

Loss Year	Description	Total Paid
2018	Sexual Abuse (Class Action)	\$500,000,000
2017	Sexual Abuse (Class Action)	\$215,000,000
2015	Methane Gas Leak	\$120,000,000
2015	Bus Shelter Collapse (Single Plaintiff)	\$115,000,000
2014	Child Abuse/Foster Care	\$113,400,000
2011	Police Shooting/Wrongful Death	\$97,000,000
2014	Dangerous Condition/Landslide	\$71,500,000
2016	Vehicle Accident/Fire Ambulance	\$65,750,000
2016	Wrongful Death	\$60,000,000
2015	Strip Search (Class Action)	\$53,000,000
2012	Dangerous Condition/Bridge Fire	\$50,000,000
2017	Vehicle Accident/Motorcycle vs Auto	\$46,000,000
2015	Vehicle Accident/Sherriff Vehicle	\$42,000,000
2011	Wrongful Conviction	\$40,000,000
2014	Dangerous Condition/Vehicle Accident	\$32,500,000
2015	Sexual Abuse	\$31,000,000
2016	Dangerous Condition/Vehicle Accident	\$30,000,000

Public Entity Exposures

Municipalities

- Police/Fire
- Road Design
- Child Protective Services
- Health Care
- Good old Slips and Falls

Schools

- Sexual Abuse/Molestation
- Athletic Event/Concussions
- EPL

Social Inflation – What's Causing It

Why are claims values going up:

Simple Inflation

Economic Disparity

Juror Demographic Composition

Reptile Theory

Digital Impact

The Ferguson Effect

Litigation Funding

Defense Bar Disconnect

Why are claims values going up?

Reason #1 Simple Inflation

\$1M certainly isn't what it used to be

1962 Cost of Living

- Dow Jones Avg. - 724
- Avg. Cost of a New House - \$12,500
- Avg. Annual Income - \$5,556
- Avg. Monthly Rent - \$110/Month
- Avg. Cost of a New Car - \$3,125
- Tuition to Harvard - \$1,520/year
- Eggs – 32 Cents per Dozen
- Gas – 28 cents per gallon

Life care plans, litigation costs, expert testimony

Why are claims values going up?

Reason # 2 Economic Disparity

Wealth Distribution

1989

The top **10%** of Americans owned the majority of U.S. wealth

67% of wealth

The next **40%** owned less than a third

30% of wealth

The bottom **50%** owned a sliver

3% of wealth

2016

The top **10%** of Americans owned more of total U.S. wealth

77% of wealth

The next **40%** owned less

22% of wealth

The bottom **50%** saw its sliver of wealth shrink

1% of wealth

Also, **about 1 in 10** families in 2016 had negative net worth

Sources: Federal Reserve Board's Survey of Consumer Finances and Federal Reserve Bank of St. Louis.

Alliant

Why are claims values going up?

Reason #3 Millennial Impact

Looking for someone to blame

- 79% favor plaintiff from the outset
- 45% would decide based on fairness
- Wants to reward underdogs and punish deep pockets
- Would give largest awards to single parent or baby plaintiffs

Jury instructions...what jury instructions?

- Will ignore law/judges instruction
- 31% would do internet research even if judge forbids it

85 Million+ Millennials!

Why are claims values going up?

Reason #4 Reptile Theory

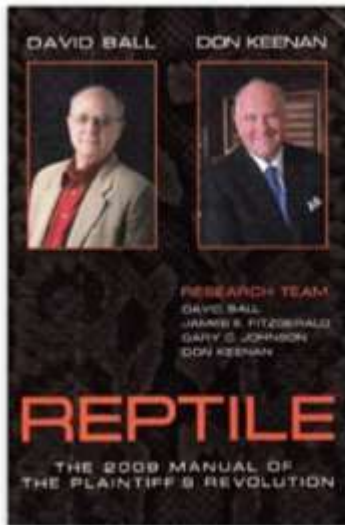
Plaintiff counsel strategy

Establish safety rules for society

Focuses on damages

Punishment and deterrence





Reptile: The 2009 Manual of the Plaintiff's Revolution

by David Ball (Author), Don Keenan (Author)

★★★★☆ 10 ratings

> See all 3 formats and editions

Paperback
from \$912.89

5 Used from \$912.89

2 Collectible from \$1,003.99

Learn how to make tort reform's impact on juries insignificant by using the instincts of safety and self-preservation. This book is highly recommended. The methods found inside have made it a must read for every trial lawyer.

[Report incorrect product information.](#)

Why are claims values going up?

Reason #5 Digital Impact

Causing immediate public awareness

Public opinion formed in in 140 characters or less

24-hour media cycle

Desensitization to value of money

Why are claims values going up?

Reason #6 The Ferguson Effect

Distrust of police actions

Assumption of blame rather than assumption of innocence

“Scumbag Defense” and “Suicide by Cop” defenses doesn’t work any more

Dash cams and body worn cams

An unfair standard?

Why are claims values going up?

Reason #7 Litigation Funding

Not a new phenomenon

Litigation funding firms select deals based on

- **Possible settlement amounts**
- **Investment outlay**
- **Probability of success**
- **Expected duration of the case**

30% return on investment

Why are claims values going up?

Reason #8 Defense Bar Disconnect

Failure to attack the “Reptile Theory”

Not resonating with millennial jurors

Can’t ignore litigation funding

Damages drive awards – unwillingness to admit guilt

Baby boomers retire

Impact on Insurance/Reinsurance

Universe of carriers is shrinking

Reduced limits and sub-limits

Pressure on terms and conditions

Remaining markets picking up the slack, but...

- Less supply + increased demand = higher rates

What Can We Do?



19

Alliant

Get Creative

Take a look at your program structure

- Consider higher retentions
- Is an aggregate/corridor deductible right for you?
- Will re-layering your excess placement help?
- Is taking on a quota-share layer a possibility?

Prepare your members

- Messaging very important
- Provide them with talking points
- Focus on the problem...not just the symptoms

Fight the Good Fight

- Pay attention to jury composition
- Value of a mock trial
- Using resources...think outside the box
- Look for early resolution
- Expert retention
- “Skin the reptile”

Dare I Say Tort Reform?

This is the real answer...but how do we do it?

DATA, DATA, DATA

- Pools are great aggregators of data
- We need to get on the same page
- Need consolidated, consistent and actionable data to present to the legislature

Projects are in the works

**I skate to where
the puck is going to be,
not where it has been.**

- Wayne Gretzky





**WHAT HAS WORKED
FOR YOU?????**

 **Alliant**