



# Florida's assignment of benefits crisis

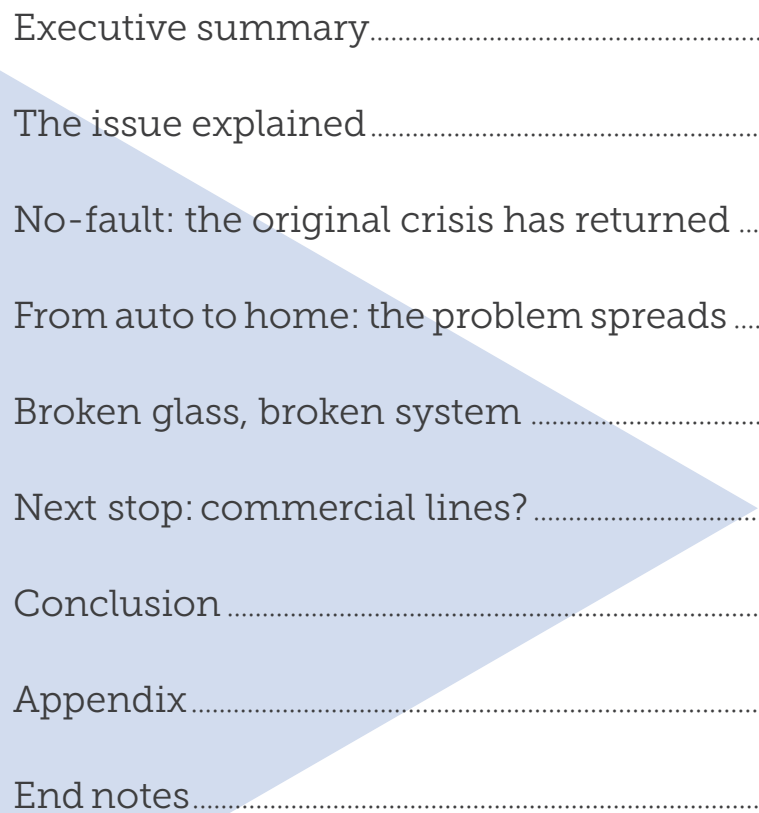
Runaway litigation is spreading, and  
consumers are paying the price

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# Table of contents



Executive summary.....	2
The issue explained.....	3
No-fault: the original crisis has returned .....	7
From auto to home: the problem spreads .....	12
Broken glass, broken system .....	18
Next stop: commercial lines? .....	22
Conclusion .....	24
Appendix.....	25
End notes.....	27



# Executive summary

It is a standard practice throughout the insurance world: As a convenience, a policyholder grants a third party – an auto glass repair company, a medical practitioner, a home contractor – permission to directly bill an insurer to settle a claim. That practice is called an assignment of benefits, usually known by the acronym, AOB.

In Florida, abuse of AOBs has fueled an insurance crisis. The state's legal environment has encouraged vendors and their attorneys to solicit unwarranted AOBs from tens of thousands of Floridians, conduct unnecessary or unnecessarily expensive work, then file tens of thousands of lawsuits against insurance companies that deny or dispute the claims. This mini-industry has cost consumers billions of dollars as they are forced to pay higher premiums to cover need-less repairs and excessive legal fees. And consumers often do not even know that their claims are driving these cost increases.

The abuse therefore acts somewhat like a hidden tax on consumers, helping to increase what are already some of the highest insurance premiums in the country.

This report discusses how AOB abuse works, how and why it is spreading, and how it is contributing to higher insurance costs for Florida consumers.

**AOB abuse is growing.** There were roughly 1,300 AOB lawsuits statewide in 2000.<sup>1</sup> There were more than 79,000 in 2013 and nearly 135,000 through November 9, 2018, a 70 percent increase in just five years.

**AOB abuse is spreading across insurance lines.** A problem once limited to personal injury protection (PIP) claims in personal auto insurance has spread to homeowners insurance and auto glass coverage. There were 2,852 property-related AOB lawsuits statewide in 2013, growing to more than 9,000 in 2016 (a timespan with limited hurricane activity). There were 3,821 auto glass lawsuits statewide in 2013. By 2017 that number had grown to 20,367. There are concerns that AOB abuse may spread beyond these lines, possibly into commercial lines such as businessowners insurance.

**AOB abuse is spreading across the state.** AOB abuse has historically been localized to a few counties, mostly in South Florida and the metro areas around Tampa Bay and Orlando. However, the abuse has begun to radiate into other counties and is quickly becoming a statewide problem. For example, Duval County in northern Florida had just under 1,000 AOB lawsuits in 2013. In 2018 through November 9, that number had jumped five-fold to more than 5,200.

**AOB abuse is increasing insurer legal costs.** AOB lawsuits are increasing significantly faster than losses. This increase in AOB lawsuits is also associated with increases in Florida insurer legal costs – increases that are significantly above nationwide averages.

**Rising legal costs are increasing costs for Florida insurance consumers.** As Florida's insurers are hit with growing legal costs and inflated settlements, they are passing these costs along to insurance consumers. Floridians are paying more for insurance than they otherwise should be – often *much* more. For example, had legal costs tracked nationwide averages, the cumulative total savings for Florida homeowners insurers (and their policyholders) would have been nearly \$1.6 billion. Had legal costs been held in check for no-fault automobile insurance claims, the savings would have been \$900 million. That is an extra \$2.5 billion in excess legal costs alone. Neither estimate contemplates the billions spent in excess settlements on the claims themselves. **AOB abuse acts like a tax on Florida consumers.**

Barring meaningful reform, AOB abuse will continue to spread – and will burden Florida consumers with more expensive insurance bills.



# The issue explained



## What is an “assignment of benefits”?

An assignment of benefits (AOB) is a contractual agreement between an insurance policyholder and a business, in which the policyholder gives over (“assigns”) to the business some of the policyholder’s rights and benefits under the policy. The business might require this assignment before it will repair or replace a policyholder’s property, or to conduct other services the insurance policy covers.

With an assignment in hand, the business can do its job, then bill the insurer. (An AOB does not waive the insured’s obligations and duties under the policy.)

In a normal situation, AOBs are an efficient, customer-friendly way to settle claims. Insureds get the services they need without slogging through the details of settling a claim.

AOBs are common in health insurance. Preapproved service providers can bill the insurer directly for covered costs.<sup>ii</sup> They also have long been used for personal auto physical damage claims: a body shop estimates repair costs subject to insurer approval. In both cases, the insurer usually has an established relationship with the service provider.

Standard homeowners policies usually allow AOBs.<sup>iii</sup>



## How is the assignment abused?

Florida's unique legal environment invites temptation to abuse the process. There are two issues. First, state law allows plaintiff's attorneys to be richly compensated with little downside if they dispute what an insurer paid for an AOB claim. Second, court decisions allow insurers to be kept in the dark in the early stages about the cost of an assigned claim, which tempts some providers to inflate the cost of their services.

Here is more detail:

- **The one-way attorney's fee provision.** This is the primary driver of AOB abuse in Florida. Under state law, if "any named or omnibus insured or named beneficiary" under the insurance policy succeeds in a first-party suit against the insurer, the court will determine a "reasonable sum" that the insurer must pay to compensate the plaintiff's attorneys.<sup>iv</sup>

But not vice versa: If the insurer wins, the plaintiff owes the insurer nothing. Furthermore, if a lawsuit is settled before judgment is rendered, plaintiff's attorneys can still collect from the insurer. Insurers will often pay slightly inflated AOB claims rather than face expensive litigation, which, if they lose, means they must pay the other side's lawyers.

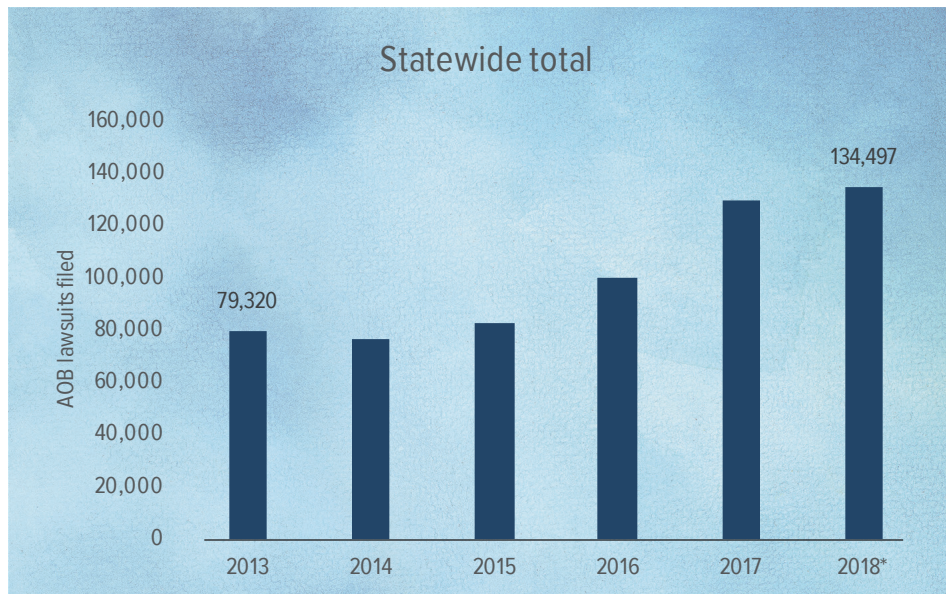
The law is meant to level the playing field between individual policyholders and economically powerful insurers. In practice it has incentivized plaintiff's attorneys to file thousands of AOB-related lawsuits because there is no limit to legal fees that can be collected. Fees can dwarf the actual damages paid to the insured – sometimes tens of thousands of dollars for a single litigated, low damage claim. This kind of arrangement is unique to Florida.

- **No insurer consent is needed for an AOB.** Florida insurance statutes also permit an insured to assign the benefits to a third-party *without insurer consent*.<sup>v</sup> This limits the insurance company's ability to monitor a claim to make sure costs do not get inflated.<sup>vi</sup>

## Identifying AOB abuse trends

The number of filed AOB lawsuits can be measured using the Florida Department of Financial Services Service of Process (SOP) database. (See the Appendix for more information on this report's methodology for analyzing the database.)

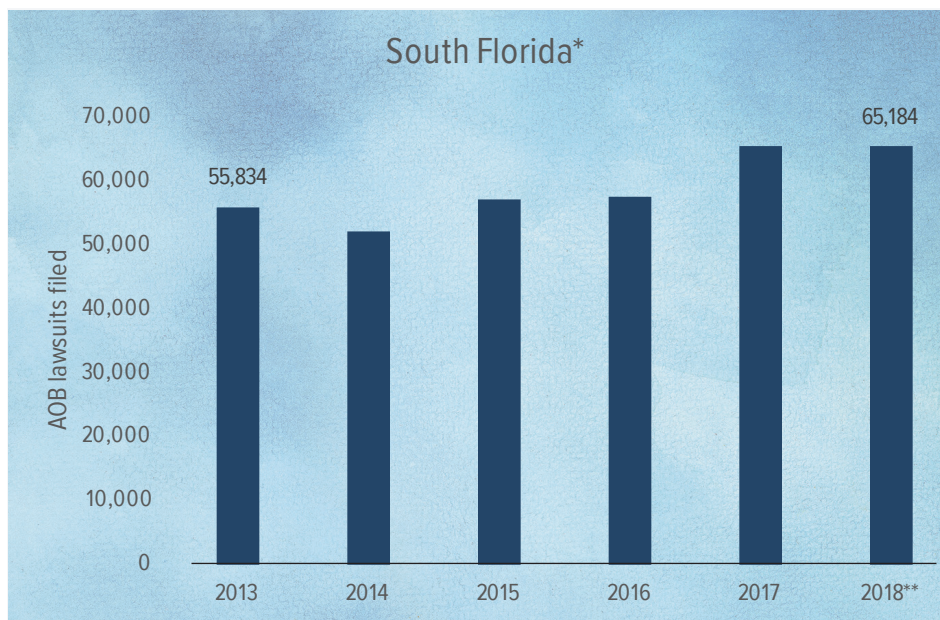
**AOB abuse is increasing statewide, even in years without much hurricane activity.**



\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.

**Historically it was focused in South Florida, where contractors and plaintiff's attorneys perfected their craft.**



\*Miami-Dade, Broward and Palm Beach Counties.

\*\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.

AOB abuse in Florida has two components: (1) Vendors submitting inflated claims and (2) Plaintiff's attorneys filing excessive lawsuits alleging bad faith or breach of contract when the insurer denies payment or offers a lower amount for the inflated claim.

In the case of abuse, vendors receive AOBs from policyholders, conduct unnecessary or unnecessarily expensive repairs (or, in fraudulent cases, conduct no repairs at all<sup>vii</sup>), then bill the insurer.

If the insurer denies coverage or offers payment below the billed amount, attorneys file suit, usually alleging breach of contract or bad faith. The disputed dollar amounts are typically low relative to the claim – and the costs of filing lawsuits with low damages are small when compared to the “benefit” of potentially unlimited attorney's fee payouts. Indeed, many AOB lawsuits are identical to one another save for the named parties to the suit.

Of course, not every assigned claim is inflated. Nor is every lawsuit filed in response to a denied claim abusive. But the huge increase in the number of lawsuits contesting trivial amounts is evidence that Florida's unique legal combination – one-way attorney's fees and the lack of insurer consent – has created an environment of abuse.

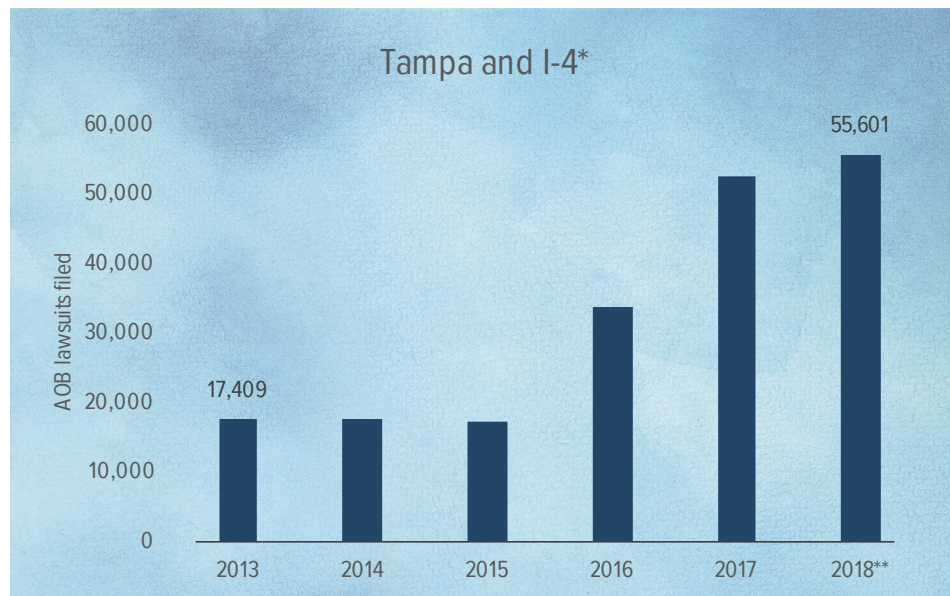


Most abuse comes from:

- ▶ Personal injury protection (PIP) claims: A person injured in a crash assigns their benefits to a medical provider, who then overbills the insurer – and sues if the insurer disputes the claim.
- ▶ Homeowners property insurance: A homeowner discovers a leaky pipe has damaged their home. A contractor convinces the claimant to sign an AOB, then performs needless repairs or overbills. If the insurer fights back, the contractor's attorney files suit.
- ▶ Auto physical damage claims to repair damaged windshields and other automobile glass: As with PIP and homeowners claims, the provider obtains an AOB, overbills, then sues if the claim is denied or trimmed.

Each of these types of claims is pursued in depth elsewhere in this report. ➡

**But it is not only a South Florida problem. It has grown in the Tampa Bay area and along the I-4 corridor. . . .**

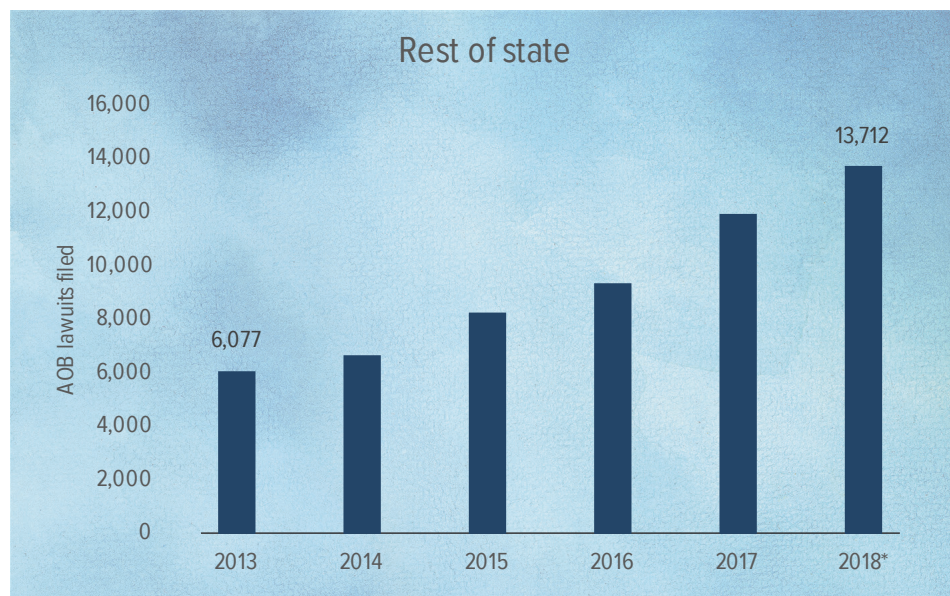


\*Pinellas, Hillsborough, Orange, Volusia, Osceola, Polk and Seminole Counties.

\*\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.

**. . . And in the less-populated areas of the state as well.**



\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.



# No-fault: the original crisis has returned



AOB abuse started in Florida's personal auto insurance market more than a decade ago, particularly with personal injury protection (PIP, or no-fault) claims. Reforms in 2012 helped temper the abuse. But the problem has returned.

AOBs are common with PIP claims. The assignment lets a medical provider seek reimbursement for their services directly from an insurer. The injured person receives medical care and does not have to deal directly with their insurance company. Usually, reimbursement is swift, and billing questions are quickly resolved.

This normal transaction gets abused when small claim disputes are litigated to generate enormous legal fees.



# What is PIP insurance ?

## How PIP abuse works

The problem: Plaintiff's attorneys file lawsuits *en masse*, often for inflated claims or potentially unnecessary medical treatment.

The size of the dispute can be trivial and the rewards great. For example, in Volusia County, attorneys recently got approximately \$40,000 in legal fees disputing a PIP claim totaling \$790.<sup>viii</sup>

The problem can take hold in any county. The number of PIP AOB lawsuits in Duval County in northern Florida more than tripled between 2015 and 2017. (These only include litigated disputes – the number of abusive claims filed is doubtless much higher and grows in lockstep with cases filed.)

Duval County is not alone. Many counties throughout the state have experienced an increase in AOB PIP lawsuits in recent years. For example, PIP AOB lawsuits in Hillsborough County on Florida's Gulf Coast increased from 785 in 2015 to 18,747 through November 9, 2018 – *a nearly 24-fold increase*.

Most disputes are settled out of court, but even without a legal judgment an insurer can still be responsible for the plaintiff's attorney fees. The primary beneficiaries of such lawsuits are therefore the attorneys filing suit and the vendors receiving higher payouts, but not necessarily the policyholders (who may not even know about the litigation being conducted in their name).

Paying all those legal fees drives up insurer costs, and in turn drives up the rates consumers pay.

PIP stands for Personal Injury Protection. This insurance typically covers certain medical expenses, lost income and other related expenses resulting from driver and passenger injuries sustained in a car accident. It is often called no-fault insurance, because the insured is covered regardless of who is at fault in an accident. Often this coverage is triggered to some extent in lieu of health insurance. Florida's PIP also covers some death benefits.

Fifteen states, including Florida, require some form of PIP insurance. Details vary significantly between states. Another three states make PIP optional.



## The first crisis

### **PIP AOB lawsuits dominated Florida insurance**

**litigation prior to PIP reform in 2012.** According to a Florida Justice Reform Institute analysis, statewide PIP AOB lawsuits rose from more than 22,000 in 2008 to more than 40,000 by 2011.<sup>x</sup> Most of this increase occurred in South Florida.<sup>x</sup>

Florida's Office of the Insurance Consumer Advocate estimated that 95 percent of the 36,509 cases filed against insurers in county courts in 2010 were PIP-related.<sup>xi</sup> Most involved an AOB claim.

**As a result, insurer legal costs increased significantly faster than PIP losses increased.** Between 2006 and 2012, the year PIP reform was passed, PIP incurred losses increased nearly 50 percent.<sup>xii</sup> Legal costs rose almost twice as fast. They went from 6.2 percent of incurred losses in 2006 to 11.2 percent six years later.<sup>xiii</sup> If legal costs had remained at 6.2 percent of losses during the years between 2006 and 2017, the cumulative total savings to Florida insurers (and their policyholders) would have been more than \$900 million.

**Total average earned statewide PIP premiums increased 34 percent** between 2008 and 2012.<sup>xiv</sup> The Florida Office of Insurance Regulation (OIR) estimated that 85 percent of insurer premium changes during that time included increased PIP premiums. Most were double-digit increases.<sup>xv</sup>

AOB abuse was probably not the sole reason incurred PIP losses increased, as medical care costs also increased over the same time.<sup>xvi</sup> However, **AOB abuse did play a critical role in driving up losses.** Insurers will often pay slightly inflated AOB claims rather than face expensive litigation.

And since PIP AOB lawsuits increased so dramatically, **AOB abuse almost certainly played a significant role in driving up legal costs through attorney's fees and other loss-adjustment expenses.** Increased legal costs were ultimately passed on to Florida consumers in the form of higher PIP premiums.

## The 2012 PIP reform addressed the problem – temporarily

In 2012 the Florida legislature passed reforms to the state's PIP program designed to discourage inflated claims, fraud and abuse. Most of the reforms became effective on January 1, 2013. The reforms included, among other items:

- ▶ Lowering the limit for claims in non-emergencies to \$2,500.
- ▶ Requiring that certain medical personnel certify that an individual suffered an "emergency medical condition" before the emergency \$10,000 PIP medical benefit can be made available.
- ▶ Only covering follow-up services if a permissible provider refers the injured person.
- ▶ Excluding some services from coverage, like massage therapy and acupuncture; and limiting the "contingent fee multiplier" for some attorney fees.

By putting controls on the system and curtailing some incentives for abuse, these provisions were intended to ensure that claims for medical services were legitimately addressed under PIP. And indeed, **PIP AOB litigation tapered off following reform**, as did auto insurance prices. The decline of total AOB lawsuit filings from 2012 through 2013 has been estimated to have been about 12 percent.<sup>xvii</sup> As a result, legal costs as a percentage of PIP losses decreased following reform, from a high of 21.9 percent in 2014 to 8.7 percent in 2017.<sup>xviii</sup> PIP incurred losses also decreased 22 percent between 2012 and 2013.

Florida auto insurers began filing PIP rate decreases by a statewide average of 13.2 percent in 2014, which the OIR attributed partly to PIP reform.<sup>xix</sup>

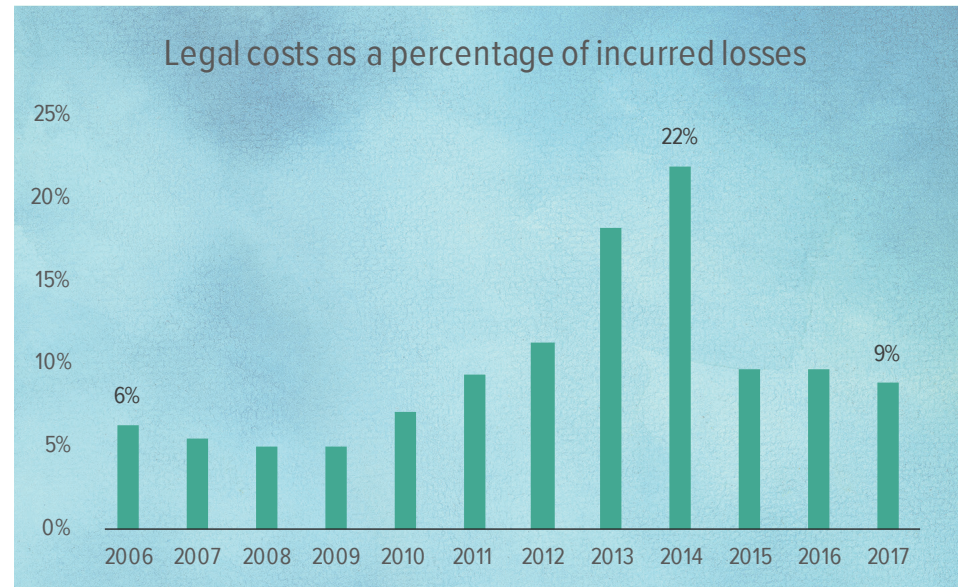
## The abuse is returning – and spreading

**The volume of PIP AOB lawsuits has begun to increase again.** In fact, there were *twice as many* PIP AOB lawsuits filed in 2017 as in 2011. PIP AOB litigation continues to make up a significant portion of total AOB lawsuits filed in Florida.<sup>xx</sup> PIP losses are also ticking back up. They were nearly as high in 2017 as they were in the peak years of abuse. And legal costs remain higher today than they were in 2006.

Why are lawsuits increasing again? Insurers note that the incentives for attorneys to continue to abuse AOBs have not been fundamentally altered. The attorney's fee statute still applies for a successful or settled suit, regardless of a lowered claims payment cap – and regardless of limits on some contingency fee multipliers. Attorney's fees can still run into the thousands or tens-of-thousands of dollars for relatively small claims.

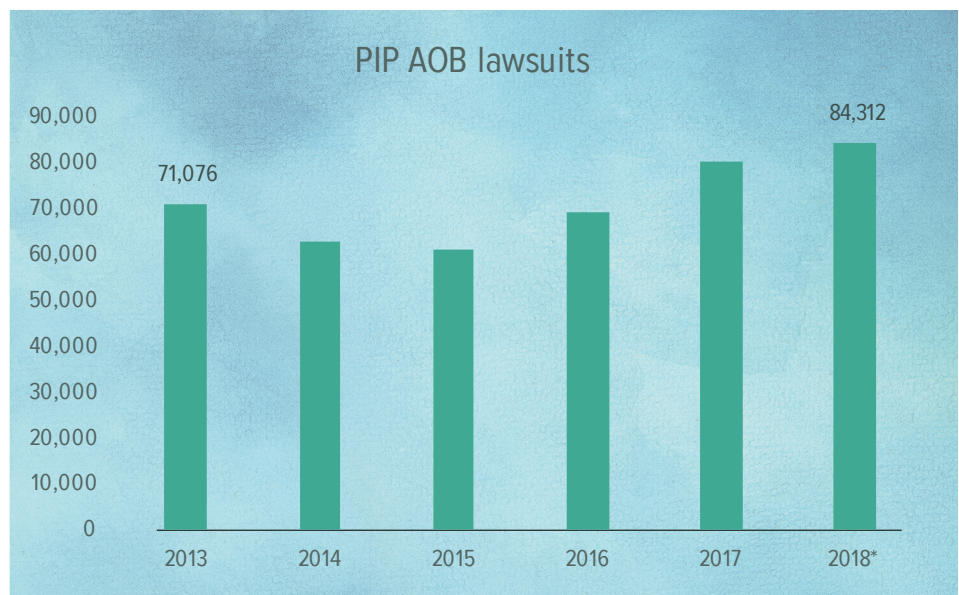
It has also been argued that PIP is ripe for AOB abuse because of the many types of service providers that could be party to an AOB – anything from MRI providers to chiropractors to physical therapists. Excluding some services, like massage therapy, does not affect the others.

**Before reform, insurer legal costs increased faster than PIP losses, then fell as reforms took hold.**



Source: NAIC data, sourced from S&P Global Market Intelligence, Insurance Information Institute.

**But the volume of PIP lawsuits has begun to increase again, which indicates that insurer legal costs could rise again soon.**



\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.



## Florida's PIP fraud problem

PIP-related fraud has been a significant problem in Florida. Prior to the 2012 reforms, Florida had the most staged accidents in the U.S.<sup>xxii</sup>

PIP fraud can also exploit the AOB process. For example, in 2017 the *South Florida Sun Sentinel* reported on an alleged conspiracy to defraud PIP insurers of more than \$23 million over seven years.<sup>xxiii</sup>

- ▶ Tow truck drivers and others were paid kickbacks – sometimes as high as \$2,100 – to refer people injured in auto accidents to a set of chiropractic clinics.
- ▶ The clinics would provide unnecessary treatment and tests for injured people and falsify that all their injuries required emergency treatment. That way, the clinics could max out the \$10,000 limit for emergency treatment under PIP.
- ▶ Attorneys would pay kickbacks to the clinics to refer patients to them and would then file lawsuits on behalf of the patients.

Several participants of the operation were subsequently sentenced to federal prison.<sup>xxiv</sup>

### **Worryingly, PIP AOB abuse appears to be spreading.**

We noted the increases in Hillsborough and Duval Counties. PIP abuse has begun to again radiate across the state.

- ▶ In St. Lucie County on the Atlantic Coast, PIP AOB lawsuits increased 552 percent, from 161 in 2013 to 1,057 through November 9, 2018.
- ▶ Also on the Atlantic Coast, Brevard County's PIP AOB lawsuits increased from 43 in 2013 to 538 through November 9, 2018.
- ▶ PIP AOB lawsuits in Orange County, in Central Florida, rose 104 percent, from 5,570 in 2013 to 11,379 through November 9, 2018.

The increased volume of PIP AOB litigation is again translating into increased legal costs. While still significantly lower than the numbers at their peak, insurer PIP legal costs rose 10 percent between 2015 and 2017.

### **Increasing costs, higher PIP premiums**

Florida is already the sixth-most expensive state for auto insurance in the country.<sup>xxi</sup> **It is almost inevitable that increasing volumes of PIP AOB litigation will ultimately increase premiums just as they did nearly a decade ago.**

Whenever the underlying cost of claims increases, rates generally increase. Absent any corrective measures, it would be expected that PIP rates will begin increasing in affected regions around 2019 or 2020, including Duval, Hillsborough, St. Lucie, Brevard, and Orange Counties. ➡





# From auto to home: the problem spreads



The PIP reforms that passed in 2012 stemmed AOB abuse in auto insurance, but at about the same time — perhaps by coincidence — homeowners insurers began noticing an increase in AOB lawsuits filed for property damage claims.

In homeowners insurance, an AOB lets a contractor seek payment from the homeowner's insurer. This allows the policyholder to have their property damage repaired quickly without having to deal directly with their insurance company. Usually, reimbursement is straightforward, and billing questions are resolved between the contractor and insurer.

A transaction is abused when claim disputes are litigated to generate enormous legal fees. As with PIP lawsuits, the insurer faces a lose-lose proposition. It could settle the claim for an inflated amount or it could fight back. But if the insurer lost, it could end up paying the plaintiff's attorney fees, as well as its own, on top of the inflated claims amount. Often these lawsuits are filed in bulk, usually for inflated bills or potentially unnecessary repairs. The result: higher premiums for consumers.

### **Most homeowners AOB claims have been for**

**“non-weather” water damages.** For example, a small pipe bursts in a kitchen and causes minor damage. The homeowner signs an AOB for immediate repairs. An abusive contractor “discovers” further water damage, conducts extensive (and unnecessary) repairs to the entire kitchen, and bills the insurer. If the insurer disputes or denies the claim, the contractor’s attorneys file suit, typically alleging breach of contract.

Most disputes are settled out of court, but a plaintiff’s attorney can still recover fees from the insurer even without a court judgment. Thus the primary beneficiaries are the attorneys and the contractors receiving higher payouts. For example, in 2013 attorneys won legal fees of \$67,000 in a settlement for settling a water pipe break claim in which the disputed amount was about \$5,000.<sup>xxv</sup>

Homeowners rarely benefit. They might not even know about the litigation conducted in their name.

### **Homeowners insurance has become the target of AOB abuse for several reasons.**

- ▶ Florida’s large insured housing stock entails a high number of property claims – which ensures large claimant and plaintiff pools.
- ▶ Water damage repairs often need to be undertaken immediately to prevent further damage. Indeed, the standard homeowners policy *requires* that policyholders protect their property from further damage by making reasonable and necessary repairs.<sup>xxvi</sup> Vendors can therefore pressure policyholders to sign an AOB immediately, *before* the insurer is notified and can inspect the damage. This makes it difficult for insurers to verify a vendor’s bills. Furthermore, vendors may promise to conduct repairs beyond the actual property damage to encourage the policyholder to sign the AOB.
- ▶ The limits on a homeowners policy are usually much higher than auto limits. The average loss for a homeowners claim in Florida is higher than an auto claim, about \$11,000 vs. \$1,300.<sup>xxvii</sup> Higher limits mean that vendors can inflate repair bills to a greater degree.

- ▶ The costs of home repair can vary widely by policyholder, depending on the type of home and the extent and location of damage. Contractor costs and the way repairs are conducted can also vary widely. As a result, abusive vendors can have more leeway to conduct unnecessary or unnecessarily expensive repairs.

### **Property AOB lawsuits have been increasing.**

According to the Florida Justice Reform Institute, there were fewer than 1,000 property AOB lawsuits against insurers in 2006.<sup>xxviii</sup> The I.I.I.’s analysis found that the number grew to more than 9,200 by 2016, mostly concentrated in the tri-county area of South Florida that includes Miami-Dade, Broward, and Palm Beach Counties.<sup>xxix</sup> Broward property AOB lawsuits nearly *quintupled*, and Miami-Dade’s nearly *tripled* between 2013 and 2016. These numbers only include litigated claims disputes – the number of abusive claims filed is likely much higher.

These increases between 2006 and 2016 came during a time of relatively quiet hurricane activity. But claims for non-weather water damage, like pipe bursts, continue to comprise a significant amount of property AOB litigation.

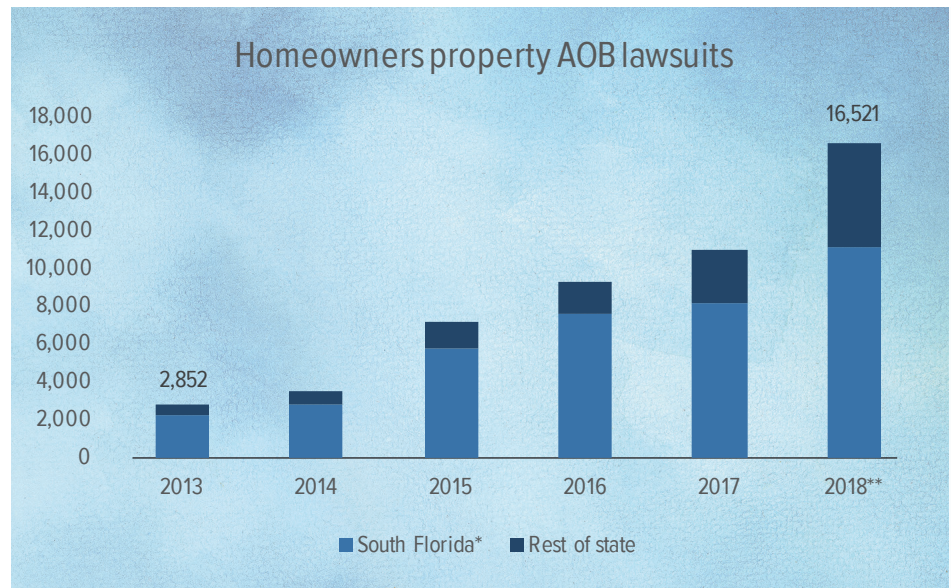
### **Property AOB abuse is making Florida homeowners insurance more expensive**

**The increasing volume of property AOB lawsuits has caused insurer legal costs to increase *much* faster than homeowners property losses.** In 2006 legal costs were 2.0 percent the size of losses for homeowners multi-peril property insurance. In 2016 this number had more than *quadrupled* to 9.2 percent.<sup>xxx</sup> That is like increasing a tax four-fold in 10 years. If legal costs had remained at 2.0 percent of losses, the cumulative total savings to Florida insurers (and their policyholders) would have been \$1.8 billion. That estimate only covers legal fees and does not include the cost of the inflated claims themselves, which likely totals billions more.

**Florida's legal expenses have been growing more than twice as fast as the national average**, even after adjusting for growth in claim costs. In 2006 homeowners legal costs as a percentage of incurred losses were about the same in Florida and the nation as a whole (2.0 percent in Florida vs. 2.3 percent nationwide). In 2016, Floridians paid more than 9 cents per dollar in legal expenses in claims, compared to just under 3 cents per dollar nationwide. If legal costs in Florida had followed national trends, the cumulative total savings to Florida insurers (and their policyholders) would have been nearly \$1.6 billion. This amount does not consider the cost of inflated claims that trigger AOB lawsuits in the first place.

**Increased insurer legal costs are being passed on to Florida homeowners in the form of higher premiums.** Florida consistently ranks as one of the more expensive states for homeowners insurance – and the costs are only increasing. The average premium rose 30 percent between 2007 and 2015.<sup>xxxi</sup> Florida's state-owned residual property insurer (the insurer-of-last-resort), Citizens Property Insurance Corp., has even higher average premiums.<sup>xxxii</sup> The Florida Office of Insurance Regulation (OIR) determined that AOB abuse for water damage claims is "driving up costs for homeowners across the state due to unnecessary litigation associated with certain AOB claims."<sup>xxxiii</sup>

**Homeowners AOB lawsuits have been increasing. South Florida dominates. But they are also growing statewide.**

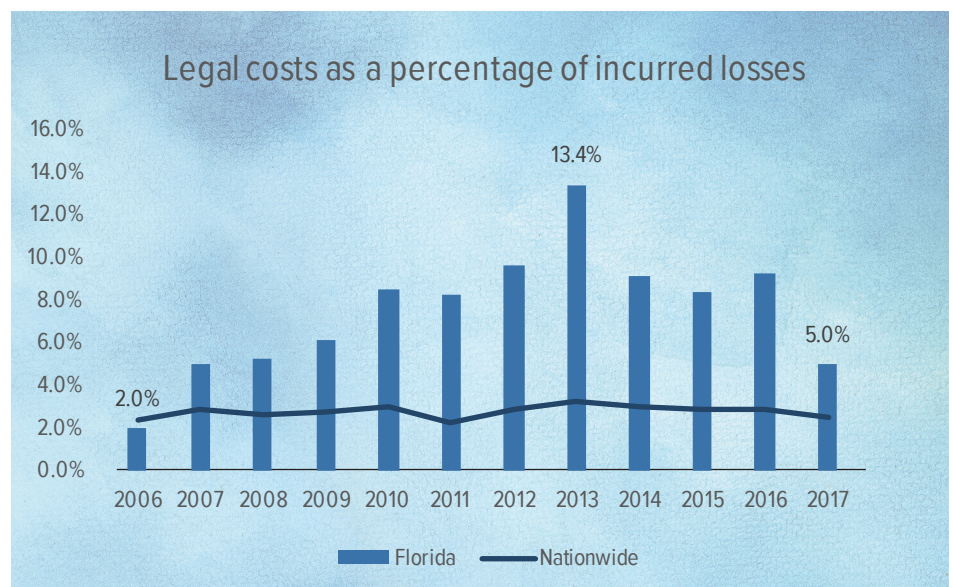


\*Miami-Dade, Broward and Palm Beach Counties.

\*\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.

**In Florida, insurers' legal costs are rising much faster than losses from homeowners claims. Elsewhere, this has not happened.**



Source: NAIC data, sourced from S&P Global Market Intelligence, Insurance Information Institute.



### Homeowners AOB abuse may be spreading beyond South

**Florida.** The OIR noted that frequency of non-weather water damage claims increased in all Florida counties between 2015 and 2017 – and nearly all Florida counties also experienced an increase in the size of the average claim. While the hotbed of property AOB abuse, southeast Florida, experienced the highest increase in claims rates (60 percent), central west Florida counties suffered the highest increase in average claim size (35 percent). Indeed, there are indications that property AOB lawsuits has begun to spread to other counties beyond South Florida. For example, Hillsborough County property AOB lawsuits increased from 39 in 2013 to 137 in 2017. Pinellas County suits increased from 40 in 2013 to 208 in 2017.

### Homeowners AOB abuse is spreading to other homeowners

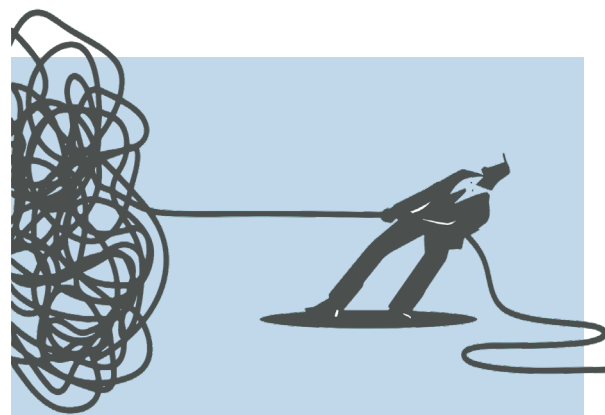
**perils.** AOB abuse is not limited to non-weather water damage. Any insured property damage that requires emergency repairs can be targeted for AOB abuse. Citizens has stated that it is experiencing an increase in AOB abuse hail losses.<sup>xxxiv</sup> In this scenario, a roofer or other contractor will receive an AOB from a homeowner to replace a roof allegedly damaged from hail.

### Increasing legal costs could continue to drive homeowners premium increases

The OIR explicitly tied the increase in AOB abuse to “significant premium increases for almost all homeowners across the state.” The three counties long considered hotspots for water-damage AOB claims litigation – Miami-Dade, Broward and Palm Beach Counties – are projected to experience significant homeowners rate increases over the next few years:<sup>xxxv</sup>

- ▶ Miami-Dade: projected average rate increase from 2017 by 2022: **62.5 percent.**
- ▶ Broward: projected average rate increase from 2017 by 2022: **61.8 percent.**
- ▶ Palm Beach: projected average rate increase from 2017 to 2022: **37.7 percent.**

Whenever the underlying cost of settling claims increases and does not appear likely to abate, rates generally increase.



## Florida consumers are being hit with more than just premium increases

If a homeowner’s assigned insurance policy becomes embroiled in a lawsuit (which can happen without the homeowner knowing about it), they could face significant personal costs. For example:

- ▶ The homeowner may now have a large claim on their loss history, which could lead to higher-than-average future premiums or denial of coverage altogether.
- ▶ For homeowners insurance, a denial of coverage could force the homeowner to acquire lender-placed insurance. This is insurance acquired through a bank or other entity to satisfy a mortgagor’s insurance requirements. Unfortunately, this insurance is often significantly more expensive than standard insurance.<sup>xxxvi</sup>
- ▶ An AOB can give contractors or suppliers the legal right to recover unpaid bills from the homeowner if the insurer delays or denies payment. Failure to pay these bills gives the contractor the ability to place a lien on the home and property. These liens could lead to foreclosure.



## The state's problem hits the state's insurer

Some who support the current AOB arrangement have claimed that Florida insurers may be facing more AOB lawsuits because they offer insufficient payments to their insureds. Such a coordinated and systemic underpayment on the part of many insurers is unlikely – particularly since abusive AOB litigation appears to be unique to Florida and is concentrated in specific counties.

Furthermore, AOB abuse is hitting Florida's state-owned residual property insurer (the insurer-of-last-resort), Citizens Property Insurance Corp., especially hard. It seems unlikely that a non-profit government entity would be one of the worst offenders in underpaying claims.

AOB water-loss claims against Citizens have grown in volume at an alarming rate. Citizens has stated that:<sup>xxxvii</sup>

### South Florida dominates AOB

As of June 2017 almost **93 percent** of AOB claims originated in South Florida – Miami-Dade, Broward, and Palm Beach Counties. Citizens has stated that AOB claims (including non-litigated claims) are twice as expensive as non-AOB claims. AOB claims that are litigated are nearly five times as expensive.

### Rates cannot rise fast enough


Citizens' homeowners rates in South Florida counties would need to almost triple to pay for the increased losses and litigation expenses caused by AOB abuse. But insurance ratemaking is tightly regulated, often subject to public policy considerations that seek to ensure widespread availability of insurance. As a result, Citizens is statutorily limited to a 10 percent statewide rate increase per year. Citizens has recommended the following 2019 rate increases for multi-peril HO-3 policies: 9.8 percent for Miami-Dade County, 9.9 percent for Broward County, and 7.7 percent for Palm Beach County – far short of the rate increases needed to make up for rising claims costs.

### Surplus at risk?

Citizens has been able to boost its claims-paying capability in general largely due to depopulation efforts and hurricane risk transfer to private reinsurance. However, in 2016 the increase in non-weather water claim losses forced the insurer to tap into its hurricane surplus funds. That year, Citizens incurred a net loss of \$35 million in its personal lines account – *in a year with minimal hurricane damage*. As a result, Citizens has expressed concern that its future claims-paying ability and surplus may be put at risk if AOB abuse continues.

## AOB abuse may weaken the Florida homeowners insurance market

Besides increasing insurance premiums, there are manifold impacts of homeowners AOB abuse spreading geographically and into other perils:

- ▶ Insurer profitability for homeowners multi-peril insurance declined between 2012 and 2016 – years that had minimal hurricane activity.<sup>xxxviii</sup> It is probable that AOB abuse contributed to this trend. The growth and spread of AOB abuse will continue to impact insurer profitability.
- ▶ Actuarially sound – but steep – rate increases made necessary by AOB abuse could be rejected by future insurance regulators concerned about insurance affordability. Rejecting large rate increases could result in a deterioration of insurer combined ratios. Deteriorating ratios and an adverse claims-settlement environment could impact insurer credit ratings.
- ▶ Citizens' efforts to move policyholders into the private market could be reversed. As rates rise dramatically in the private market, there are concerns that homeowners may be driven into the residual marketplace, where rate increases are capped. This could threaten Citizens' ability to respond to catastrophic property losses following a hurricane, for example. 

## When is homeowners property AOB abuse fraudulent?

Whether any amount of homeowners water damage AOB claims and lawsuits are fraudulent is up for debate. Some argue that a portion of the abuse must be fraudulent because it is otherwise unclear why specific Florida counties are experiencing such a dramatic increase in burst pipes, for example, while others are not. Others counterargue that an aging housing stock with older piping is responsible for the increase in pipe bursts in certain areas.<sup>xxxix</sup>

Either way, there is evidence that AOBs *can* be exploited for fraudulent purposes, particularly for weather-related damages. In June 2018 the owner of a water remediation company was arrested for allegedly operating a homeowners AOB fraud scheme.<sup>xl</sup> The individual in question reportedly received AOBs from 19 homeowners to conduct repairs following weather events – repairs that were never completed. The individual charged insurers \$140,000 for the nonexistent repair work.





# Broken glass, broken system



Following PIP reform in 2012, AOB abuse spread into another personal auto coverage virtually overnight: auto glass.

Auto glass and windshield repair businesses have long used AOBs to facilitate an efficient claims settlement process, often maintaining a contractual relationship and agreed price schedule with insurers. But as with PIP, this normal AOB transaction gets abused when tiny claim disputes are litigated to generate large legal fees – fees that insurance companies and insurance consumers end up paying. There is initial evidence that some of the abuse has been tempered over the course of 2018, but the rise in auto glass disputes illustrates how quickly and dramatically AOB abuse can spread. And the level of AOB lawsuits in 2018 still dwarfs what it was five years ago.

## **A lawsuit factory**

Between 2013 and 2017 auto glass AOB lawsuits were being filed in bulk – a sort of factory of legal filings – usually for inflated claims or potentially unnecessary windshield replacements, and often for trivial dollar-amount differences.

Complicating the matter, Florida statute bars insurers from subjecting windshield and auto glass damages to a deductible. This created an additional incentive to conduct unnecessary or unnecessarily expensive glass repairs, such as replacing an entire windshield for a hairline crack when a single patch would have sufficed.

# ? Insurance and auto glass

## – How is it covered

### **Auto insurance provides property, liability and medical coverage:**

- ▶ Property coverage pays for damage to, or theft of, a car.
- ▶ Liability coverage pays for the policyholder's legal responsibility to others for bodily injury or property damage.
- ▶ Medical coverage pays for the cost of treating injuries, rehabilitation and sometimes lost wages and funeral expenses.

Auto glass abuse involves two property coverages: comprehensive and collision,

Collision pays for damage to the policyholder's car resulting from a collision with another car, object or as a result of the car flipping over. Comprehensive reimburses for loss due to theft or damage caused by something other than a collision with another car or object, such as fire, flood – or for example, a rock hitting a windshield.

Damage is usually covered by comprehensive insurance. However, if glass is damaged in a collision the policyholder can choose whether comprehensive or collision coverage applies. This way the policyholder does not have to file one claim for the vehicle (collision) and one for the glass (comprehensive) and become subject to two deductibles. In Florida there is no deductible on glass claims, so the choice is less meaningful.

Neither comprehensive nor collision coverage is required by, but most policyholders purchase it. If the purchase was financed, the lender likely requires both. About 80 percent of Florida's insured drivers had collision coverage in 2015, the most recent year available, according to data from the National Association of Insurance Commissioners. About 85 percent of drivers had comprehensive.<sup>xlvii</sup>

In most of the U.S., it is hard to picture how the repair of a windshield could lead to a lawsuit. The actual claim amount is relatively small, often a few hundred dollars.<sup>xli</sup> The difference between the replacement cost and an inflated bill is even smaller – sometimes just a few dollars, which may discourage an insurer from denying the inflated claims. And if a claim is litigated, the attorney's fee statute kicks in. For example, in one settled lawsuit from 2014, the final amount paid to an auto glass shop for repair work was \$160. The amount paid to the attorney was \$1,600.<sup>xlii</sup> While that one instance might not seem like much, when reproduced for thousands of lawsuits, those fees add up to millions of dollars.

### **Coast to coast: the problem spreads**

Auto glass AOB abuse was originally centered in the Tampa Bay and Orlando areas of Hillsborough, Pinellas, and Orange Counties. It spread along the I-4 Interstate corridor that stretches from Tampa to Daytona Beach, including Osceola, Polk, Seminole, and Volusia Counties.

Between 2013 and 2017, in the Tampa Bay and I-4 corridor counties, AOB auto glass and windshield lawsuits increased more than four times – from 3,723 to 17,165. Over that time, auto glass litigation comprised an increasing share of AOB litigation within those counties.

### **I-4 corridor AOB abuse is unseen in comparable counties.**

Compare Osceola County with St. Lucie County. Both have comparable median household incomes and total registered autos and pickups.<sup>xliii</sup> Osceola County had 37 glass/windshield AOB lawsuits filed in 2013. That number jumped to 2,156 in 2017. St. Lucie County had *zero* during *all* years between 2013 and 2017.

There is little explanation for why windshields along the I-4 corridor should break at such dramatically higher rates than other comparable counties or why the number of breakages and disputes should have risen so dramatically.

### **Auto glass AOB abuse occurred beyond the I-4 corridor.**

South Florida has also been affected by auto glass AOB abuse. For example, Broward County auto glass AOB lawsuits increased from just 2 in 2013 to 2,814 in 2017.



## The problem may be contributing to rising insurer legal costs

Losses for personal auto physical damages in Florida tracked nationwide average increases between 2006 and 2017.<sup>xliv</sup> But as with PIP, legal costs in Florida for personal auto physical damages are rising faster than losses. The proportion of legal costs to losses in Florida increased 60 percent between 2006 and 2017.

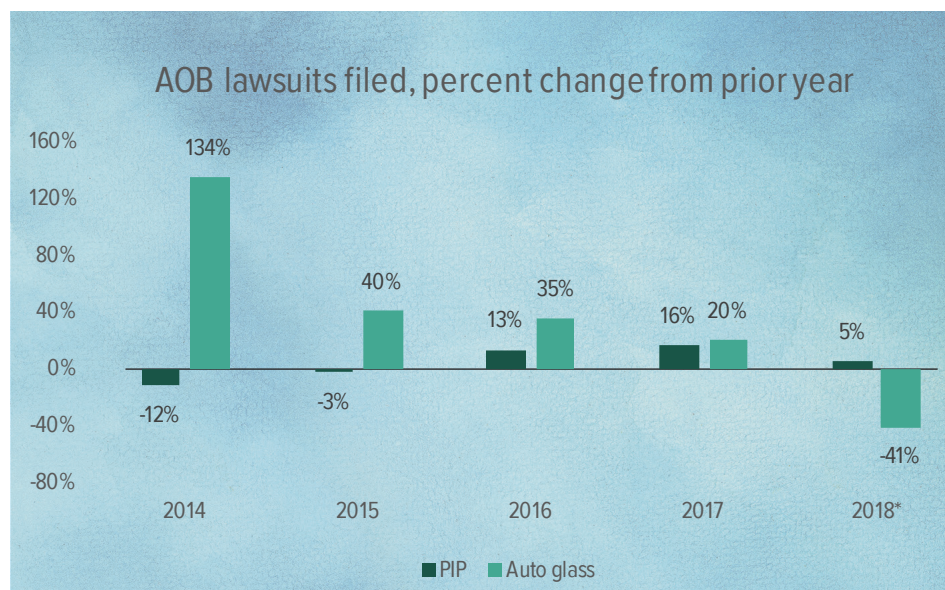
In contrast, nationwide average legal costs in proportion to losses *decreased*. If legal costs had followed nationwide trends, Florida insurers (and their policyholders) would have paid 38 percent less than they actually did, saving more than \$94 million in legal costs alone. This estimate does not consider the additional amount paid to settle the claims themselves.

From the available data, **we cannot quantify how much of this rise in the legal costs is solely attributable to auto glass AOB abuse.**

Physical damage includes other covered perils beyond auto glass.

Nonetheless, **it is likely that auto glass AOB abuse is having some impact on insurer legal costs, which are being reflected in commensurate premium increases.** Claim costs per vehicle for comprehensive auto insurance increased 24 percent between 2012 and 2016.<sup>xlv</sup> It is probable that AOB abuse has caused some of that increase.

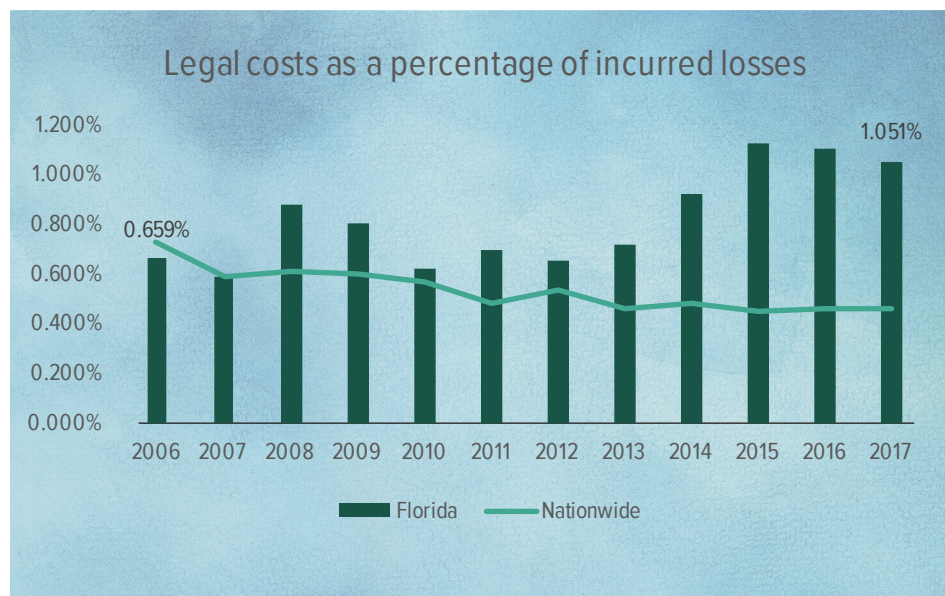
## After PIP reform, abuse quickly spread into auto glass coverage.



\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.

## In Florida, insurers' legal costs are rising much faster than losses from claims. In the rest of the country, they have *declined*.



Source: NAIC data, sourced from S&P Global Market Intelligence, Insurance Information Institute.

### Is the problem solved?

In 2018 there been a significant drop in statewide auto glass AOB lawsuits, down from more than 20,000 in 2017 to just over 12,000 through November 9, 2018. Individual counties saw even more dramatic decreases. For example, auto glass lawsuits in Broward County declined from a high of 2,814 in 2017 to 285 in 2018. Pinellas County went from 4,483 lawsuits in 2016 to 15 in 2018.

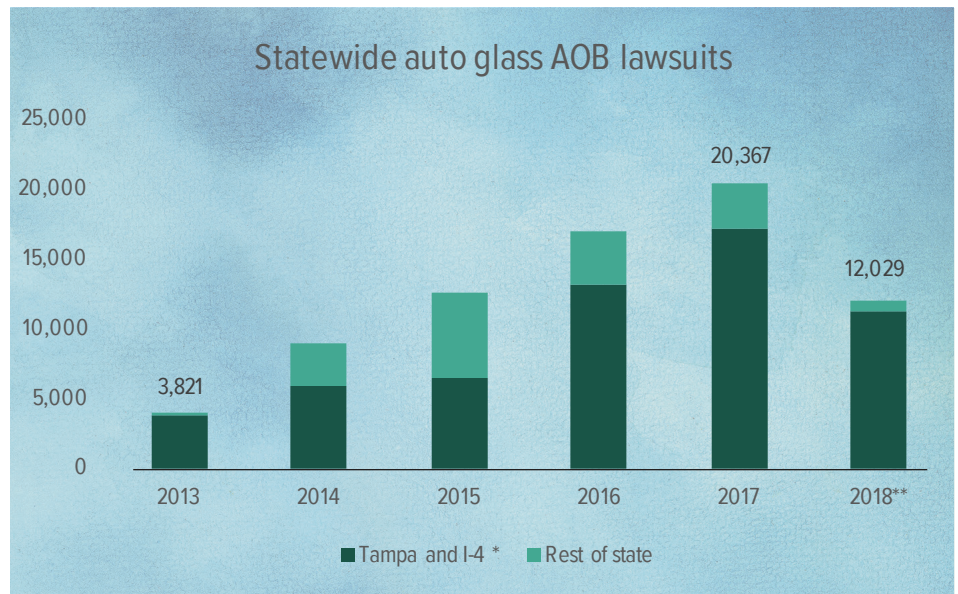
Some have suggested that these declines may be due to insurers entering into pricing agreements with abusive vendors. Others have noted that this decline might be partly attributed to the fact that one of the most litigious vendors has pulled out of the South Florida market.<sup>xlvi</sup>

Either way, it is too early to tell whether there is a trend. Perhaps the drop will continue. Or AOB abuse for auto glass claims will increase again. Previously there have been some year-over-year fluctuations in AOB lawsuit volume for certain counties.

Furthermore, the epicenters of auto glass abuse, Hillsborough and Orange Counties, have not yet experienced a dramatic decline in lawsuits. In fact, lawsuits increased in Orange County between 2017 and 2018 through November 9. Total statewide auto glass AOB lawsuits in 2018 were still four times higher than they were in 2013, 12,029 versus 3,821.

Finally, Florida's legal environment has not changed. Auto glass AOB abuse flared up rapidly in 2013, with dramatic results. This suggests that auto glass AOB abuse could return at any time to those regions where it had been tempered – and to other counties as well. ➡

**Glass AOB suits have fallen in 2018, though the number of lawsuits remains far in excess of 2013 levels.**



\*Pinellas, Hillsborough, Orange, Volusia, Osceola, Polk and Seminole Counties.

\*\*Through November 9, 2018.

Source: Florida Department of Financial Services Service of Process Database, Insurance Information Institute.





## Next stop: commercial lines?



While there are no data indicating that AOB abuse is spreading to business insurance, there are concerns that it might eventually.

The most immediate risk would likely be to small businesses and the policy tailored to their needs, the businessowners policy, usually referred to as the BOP. Like a homeowners policy, a BOP is a package policy that combines liability and property coverages. Commercial automobile coverages may be affected as well.



## Why BOPs could be abused

Certain characteristics of both the BOP coverage and the typical BOP policyholder might make AOB litigation in this line attractive to providers and plaintiff's attorneys.

### Large plaintiff pool

As with homeowners insurance, BOP policyholders represent a large pool of potential AOB assignees and plaintiffs.

### Unsophisticated policyholders

BOP policyholders often have similar characteristics to a typical homeowner. For example, they probably do not employ staff counsel or risk managers to advise on insurance matters, but instead rely on agents or brokers.

### Higher payout potential

Potential payouts to vendors for covered losses may be higher than for homeowners insurance because the BOP usually has higher policy limits. This may serve as an incentive for vendors and attorneys to target small- to mid-sized establishments.

**Business auto coverage is also exposed to auto glass AOB abuse.** As with personal auto insurance, commercial auto covers glass breakage under collision and comprehensive coverage.

## However, there are some deterrents to AOB spreading into commercial lines

### Who signs the AOB?

Unlike under a homeowners policy, a commercial policy holder may not always be easily accessible to sign an AOB. Depending on the business's legal structure, the policyholder may be a limited liability company (LLC) and may require the AOB be executed by the named insured or the LLC's members. An unwary employee on the business premise would not therefore be able to inadvertently sign an AOB to an abusive vendor.

### The abuse is not scalable

The question of who owns what is far more complex in the commercial world than in the private. That means that it is more difficult to reproduce AOB claims in bulk. In short, the scam is not scalable. It is clear who owns a single-family home. But small businesses often lease space from commercial building owners. The exact property insurance policies in force under such an arrangement would depend on the terms of the lease. For example, the property could be entirely covered under the building owner's insurance; or the structure of the part of the building leased to the tenant could be covered under the tenant's insurance; or the tenant could add the property owner as an additional insured to the tenant's property coverage. Each specific lease arrangement would determine how an AOB would need to be executed. Such complications could discourage large volumes of AOB claims and lawsuits.

### Risk managers

The larger and more complex the business, the more likely it is that the policyholder either maintains a close relationship with their insurance broker/agent or employs a risk manager. These could discourage ill-advised AOBs from being signed.

However, as the spread of AOB abuse throughout personal lines insurance has shown, abusive vendors and their attorneys can be quite creative. Many people were blindsided by the explosive rise of auto glass AOB abuse. Vendors and attorneys may find work-arounds to some of the deterrents described above. If they do, the abuse could spread among commercial lines, just as it did with auto glass claims. 📌




# Conclusion



Florida's legal environment permits massive misuse and abuse of insurance assignment of benefits. This has cost consumers billions of dollars over the past decade as inflated legal fees and unwarranted claim costs have driven insurance premiums higher, acting almost like a hidden tax on Florida's insurance customers.

Abuse is spreading across insurance lines of business, including no-fault auto, homeowners and automobile glass. It appears to be spreading from county to county across the state.

Absent significant legal reform, more areas of the state will face a rising tide of lawsuits and Florida consumers will be unwittingly forced to pay higher premiums. 



# Appendix

This report relies on the Florida Department of Financial Services (DFS) Service of Process website for assignment of benefit (AOB) lawsuit data.

A service of process occurs when a plaintiff gives legal notice that a lawsuit has been filed. When this analysis was conducted, the DFS website included all such notices submitted in Florida against insurers since 2013.

## Search methodology

This report employed a methodology like one used by the Florida Justice Reform Institute (FJRI) in its analyses of AOB abuse. However, we refined and expanded the keywords previously used by FJRI.<sup>xlviii</sup> As such, the numbers found in this report may differ from those published elsewhere.

Lawsuits were limited to those filed against property/casualty insurers. AOB lawsuits were identified by sorting plaintiff names that included the terms “a/a/o,” “aao,” or “assignee” – these terms, shorthand for “as assignee of”, indicate that a lawsuit was filed with an AOB.

To identify when an AOB lawsuit involved a PIP, homeowners property, or auto glass claim, we sorted plaintiff names using specific identifying keywords. Variations of these keywords to account for possible spelling errors were also considered (e.g. “glas” instead of “glass”).

► **Personal injury protection:** Lawsuits were identified by searching for lawsuits against auto insurers in small claims and county courts. These courts have a jurisdictional limit of \$15,000. Since Florida’s PIP payments are statutorily capped at \$10,000, PIP lawsuits are filed in these jurisdictions.

Plaintiff names were sorted to include: care, chiro, clinic, diagnostic, health, hospital, imaging, injury, medical, MRI, ortho, physician, radiology, rehab, spine, surgery, therapy, wellness. Suits filed by medical professionals and medical facilities without identifying keywords were also pinpointed.

► **Homeowners property:** Lawsuits were identified by searching for lawsuits against property insurers in all jurisdictions, since there is no statutory cap on payments.

Plaintiff names were sorted to include: water, restor, roof, floor, remedia, mitigat, mold, carpet, dry, catastrophe, contract, construct, clean, build. As with PIP, property AOB lawsuits filed by companies without these search terms were also identified. The data were reviewed to ensure that non-property plaintiffs whose names included the search terms were excluded.

► **Auto glass:** Lawsuits were identified by searching for lawsuits against auto insurers in all jurisdictions, since there does not exist a statutory cap on payments.

Plaintiff names were sorted to include “glass” and “windshield” – auto glass vendors will typically have one or both words in their names. Other entities filing auto glass suits were also identified, including billing companies filing suits on behalf of glass repair vendors. The data were reviewed to ensure that non-auto glass plaintiffs whose names included the search terms were excluded.



## Limitations and qualifications

The database has several limitations.

- ▶ **Details of lawsuit filings are not available.** The database only indicates metadata related to a lawsuit filing, including plaintiff, attorney, defendant, court and date filed. Damages and specific allegations are not available.
- ▶ Because the database is limited to metadata, **it is not always possible to determine when an AOB lawsuit is a PIP, property, or auto glass lawsuit.** For example, some auto repair shop plaintiffs may be filing suit for a collision claim or an auto glass claim. Or some medical plaintiffs may be filing suit for reimbursement for massage services (not covered by PIP) or physical therapy (covered by PIP). We generally excluded lawsuits from coverage-specific AOB lawsuit counts whenever we were unable to determine the specific coverage involved. Additionally, not all AOB lawsuits involve PIP, property or auto glass.
- ▶ **The data only include AOB lawsuits filed, not all AOB claims.** It can be presumed that the overall incidence of AOB claims would be much higher than this report's numbers, since not all AOB claims are worse than the DFS data indicate.
- ▶ **The DFS only stores data for five years.** This limits the report's analysis to lawsuits filed in 2013 and later. For years before 2013, this report relied on FJRI data. However, our refinement of the FJRI search methodology makes comparing their previous AOB lawsuit analyses with our findings difficult.

However, we do not believe that these limitations significantly impact the report's statistics and trends.

## Further considerations

Of note, the DFS data indicate a significant increase in medical-related AOB lawsuits being filed in courts other than small claims and county – that is, in courts with jurisdictional limits higher than \$15,000. In 2013 there were 543 medical-related AOB lawsuits filed in courts other than small claims and county. That number reached 20,640 in 2018 through November 9.

It is unclear what coverage these lawsuits are being filed under and why high damages are being sought. 

# End notes

<sup>i</sup> Delegal, Mark and Kalifeh, Ashley. “[Restoring Balance in Insurance Litigation.](#)” p. 10. Florida Justice Reform Institute.

<sup>ii</sup> Some states permit a health insurer to include an “anti-assignment of benefits” clause in its policies to discourage an insured from assigning rights and benefits to an out-of-network provider.

<sup>iii</sup> For example, a standard homeowners policy (HO-3 – Special Form) under the conditions section states that an insurer will adjust all losses with the insured and will pay the insured, “unless some other person is named in the policy or is legally entitled to receive payment.”

<sup>iv</sup> § 627.428 Fla. Stat. [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0600-0699/0627/Sections/0627.422.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0627/Sections/0627.422.html)

<sup>v</sup> § 627.422 Fla. Stat. [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0600-0699/0627/Sections/0627.422.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0627/Sections/0627.422.html)

<sup>vi</sup> Furthermore, all insureds’ consent is not always needed for an AOB. This is particularly important in homeowners insurance, where the homeowner has a mortgage. Florida courts have been split on the issue of whether an AOB requires the policyholder to receive written consent of all insureds and mortgagors of a policy before it can be valid. Requiring all parties to a policy to have a say in whether to sign an AOB could act as a brake on vendors seeking to abuse the process. Additionally, like many other states, the Florida Supreme Court ruled that anti-assignment of benefits clauses in insurance contracts cannot be applied to post-loss assignments. Any clause in the policy prohibiting AOBs would not apply to any AOB executed after the insured suffered a loss. *West Florida Grocery Co. v. Teutonia Fire Insurance Co.*, 77 So. 209

<sup>vii</sup> “[Florida Restoration Contractor Arrested Over \\$140K AOB Fraud Scheme.](#)” 13 Jun. 2018. *Insurance Journal*.

<sup>viii</sup> Fernandez, Frank. “[Small Claims, Big Impacts: Surge in Lawsuits Drives Up Costs for Volusia-Flagler Motorists.](#)” 23 Sept. 2018. *The Daytona Beach News-Journal*.

<sup>xix</sup> Delegal and Kalifeh.

<sup>x</sup> “[Report on Review of the 2011 Personal Injury Protection Data Call.](#)” 11 Apr. 2011. Florida Office of Insurance Regulation.

<sup>xi</sup> Westcott, Robin Smith. “[Report on Florida Motor Vehicle No-Fault Insurance.](#)” Dec. 2011. Florida Office of the Insurance Consumer Advocate. P. 36.

<sup>xii</sup> Unless otherwise indicated, incurred losses and insurer legal costs are NAIC data, sourced from S&P Global Market Intelligence, Insurance Information Institute.

<sup>xiii</sup> Insurer legal costs increased 245 percent between 2008 and 2011, whereas PIP losses increased 83 percent. If we extend our timeframe from 2008 to 2014, legal costs had increased 487 percent since 2006. PIP AOB lawsuits may take some time to settle, sometimes up to 18 months or even longer. As a result, the true impact of an increase in PIP AOB lawsuits may not have appeared on insurer balance sheets for some years after the 2012 reform kicked in.

<sup>xiv</sup> National Association of Insurance Commissioners, “Auto Insurance Database.”

<sup>xv</sup> Starnes, Sandra. “[Presentation on Personal Injury Protection \(PIP\) Insurance.](#)” 2 Apr. 2013. Florida Office of Insurance Regulation. Notably, the increase in lawsuits, losses, and auto premiums occurred during a time when the number of drivers and total crashes stayed relatively constant. Florida Department of Highway Safety and Motor Vehicles, “Vehicle and Vessel Reports and Statistics” and “[Crash and Citation Reports and Statistics.](#)”

<sup>xvi</sup> Total hospital, physician, and clinical cost expenditures for all payers in Florida increased 20 percent between 2008 and 2012. Total hospital, physician, and clinical cost expenditures per capita increased 15 percent between 2008 and 2012. U.S. Centers for Medicare & Medicaid Services, “[Health Expenditures by State of Residence, 1991-2014.](#)”

<sup>xvii</sup> Delegal, Mark and Kalifeh, Ashley. “[Restoring Balance in Insurance Litigation: An Update.](#)” Florida Justice Reform Institute.

<sup>xviii</sup> There is a delay for legal costs to appear on insurer balance sheets, hence the lag between PIP reform and the decline in insurer legal costs.

<sup>xix</sup> Florida Office of Insurance Regulation. “[Personal Injury Protection \(PIP\) Premiums Going Down for Most Florida Drivers.](#)” 22 Jan. 2014.

<sup>xx</sup> Florida Justice Reform Institute. “[Assignment of Benefits.](#)”

<sup>xxi</sup> As of 2015. Insurance Information Institute, “[Facts + Statistics: Auto insurance.](#)”

<sup>xxii</sup> Kallestad, Brent. “[Florida Passes PIP Reform Bill.](#)” 12 Mar. 2012. *Insurance Journal*.

<sup>xxiii</sup> McMahon, Paula. “[Massive \\$23 million auto insurance fraud was an intricate operation.](#)” 14 Oct. 2017. *South Florida Sun-Sentinel*.

<sup>xxiv</sup> McMahon, Paula. “[Greed drove \\$23M auto insurance fraud at chiropractic clinics, feds say.](#)” 21 Mar. 2018. *South Florida Sun-Sentinel*.

<sup>xxv</sup> Delegal and Kalifeh, p. 41.

<sup>xxvi</sup> Insurance Services Office, Inc., Homeowners 3 – Special Form HO 00 03 05 11

<sup>xxvii</sup> Insurance Services Office, Fast Track Monitoring Service, “Private Passenger Automobile Fast Track Data: Second Quarter 2018” and “Homeowners Fast Track Data: Second Quarter 2018”

<sup>xxviii</sup> This count only includes lawsuits brought by water, restoration, roofing, flooring, remediation, mitigation, mold, emergency, carpet and drying service vendors. See the Appendix for more information.

<sup>xxix</sup> There were 16,521 lawsuits statewide in 2018 through November 9, though some part of those may be attributed to recent hurricane activity. We restricted our analysis to the years 2006 - 2016 to account for the increased hurricane activity in 2017 and 2018.

<sup>xxx</sup> Legal costs for homeowners property in Florida between 2006 and 2016 increased 653 percent, whereas losses increased 62 percent.



<sup>xxxi</sup> Insurance Information Institute, “[Facts + Statistics: Homeowners and renters insurance.](#)”

<sup>xxxii</sup> Citizens Property Insurance Corporation, “[Citizens 2019 Rates.](#)”

<sup>xxxiii</sup> Florida Office of Insurance Regulation, “[Report of the 2017 Assignment of Benefits Data Call.](#)” 8 Jan. 2018

<sup>xxxiv</sup> Citizens Property Insurance Corporation, “[Citizens 2018 Rates.](#)”

<sup>xxxv</sup> These projected average rates are for \$150,000 new homes and are based on the filed/approved rate changes for 15 large insurers providing coverage in Florida, excluding Citizens Property Insurance Corporation. Florida Office of Insurance Regulation, “[5-Year Rate Projections for Homeowners \(HO-3\) Insurance by Florida County and Risk Type.](#)” Jan. 2018.

<sup>xxxvi</sup> “[Lender-Placed Insurance.](#)” 2 Aug. 2018. National Association of Insurance Commissioners.

<sup>xxxvii</sup> Citizens Property Insurance Corporation, “[2018 Rate Kit](#)” and “[2019 Rate Kit.](#)”

<sup>xxxviii</sup> According to the National Association of Insurance Commissioners “Profitability by Line by State” report, return on net worth for homeowners multi-peril insurance decreased 39 percent between 2012 and 2016.

<sup>xxxix</sup> Hurtibise, Ron. “[Attorneys Object to Citizens' Water Damage Fraud Allegations.](#)” 16 Jan. 2016. *South Florida Sun Sentinel*.

<sup>xl</sup> “[Florida Restoration Contractor Arrested Over \\$140K AOB Fraud Scheme.](#)” 13 Jun. 2018.

<sup>xli</sup> Carollo, Malena. “[Broken auto glass cases are clogging Hillsborough courtrooms, with no sign of slowing.](#)” 25 Oct. 2018. *Tampa Bay Times*.

<sup>xlii</sup> Delegal and Kalifeh, p. 33.

<sup>xliii</sup> Osceola County: 252,930 registered vehicles, \$49,762 median household income. St. Lucie County: 227,028 registered vehicles, \$50,062 median household income. Based on the U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, “Median Income in the Past 12 Months (In 2017 Inflation-Adjusted Dollars)” and the Florida Highway Safety and Motor Vehicles Department “Vehicle and Vessel Reports and Statistics,” as of 10/14/2018.

<sup>xliv</sup> Between 2006 and 2017 Florida insurer incurred losses increased by 67 percent, whereas losses increased 62 percent across the country. Excluding 2017, where Florida losses were exacerbated by Hurricane Irma, the respective increases were 45 percent and 57 percent.

<sup>xlv</sup> ISO Fast Track, “Private Passenger Automobile Fast Track Data: Third Quarter 2017” and “Private Passenger Automobile Fast Track Data: Second Quarter 2018”

<sup>xlvi</sup> Hurtibise, Ron. “[Windshield lawsuits drop statewide; now barely a blip in South Florida.](#)” 6 July, 2018. *South Florida Sun Sentinel*.

<sup>xlvii</sup> Insurance Information Institute calculation using data from National Association of Insurance Commissioners, “Auto Insurance Database Report 2014/2015”, published December 2017.

<sup>xlviii</sup> We were assisted in this exercise by William Large, president of the Florida Justice Reform Institute and Ashley Kalifeh of Capital City Consulting.



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