

CHUBB®

# Casualty

North America -  
US Nuclear & Thermonuclear Casualty  
Claims

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# Nuclear & Thermonuclear Awards

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“Nuclear Verdict” defined as a verdict of \$10 million or greater.

“Exceptionally high jury verdicts that exceed what most would consider reasonable”

**Are we now in the age of “Thermonuclear verdicts”?**

Thermonuclear Verdicts are defined as verdicts in excess of \$100 million.



# Nuclear & Thermonuclear Awards

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## Warner v Geico Insurance 2024

On the evening of 29<sup>th</sup> December 2017, a Geico insured driver broke down. Geico instructed a roadside assistance company, Midnight Recovery, to assist its policy holder.

Unfortunately on route to assist the Geico policy holder, the tow truck was involved in a RTA with a Third Party, Warner.

Warners lawsuit claimed that the insurance company was vicariously liable for her injuries because Geico had contracted towing company Midnight Recovery Inc. to respond to roadside assistance jobs. It claimed that Geico negligently sent a tow truck out on a roadside assistance job only for it to ultimately rear-end a motorist stopped at a red light, leaving her a quadriplegic.

**Judgement?**

**Insurance company vicariously liable for Midnight Recovery**

**Award?**

**\$163.9m**

# Nuclear & Thermonuclear Awards

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## Johnson v Union Pacific Railway 2023

In the early hours of 5th March 2016, Johnson was struck by a locomotive whilst sat on the tracks. She had been drinking heavily and became detached from her friends. She was 27 and suffered catastrophic injuries.



It was alleged that “if the lights on the locomotive were bright enough to illuminate [Johnson] on the tracks 800 feet ahead as is required by federal law... the accident would not have occurred”. It was argued that these commercial trains take in excess of a mile to slow down under emergency braking.

Judgement?

**Union Pacific Railway 80% liable – Plaintiff 20% liable**

Award?

**\$557m**

# Nuclear & Thermonuclear Awards

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## Johnson v Mitsubishi 2023

58-year-old Francis Amagasu's life took a drastic turn following a rollover crash in 2017 with his 1992 Mitsubishi 3000GT. While trying to pass another vehicle, Amagasu lost control, leading to his vehicle veering off the road and overturning.

Despite being secured by a seatbelt, it was one made with a "rip-stitch" design, where the belt comes apart to better manage the forces in a crash.

During the crash, the seatbelt reportedly slackened excessively (4 inches), causing the plaintiff to collide with the roof of the car, contributing significantly to the severity of Amagasu's injuries. As a result of these injuries, Amagasu now requires a wheelchair for mobility.

**Judgement?**

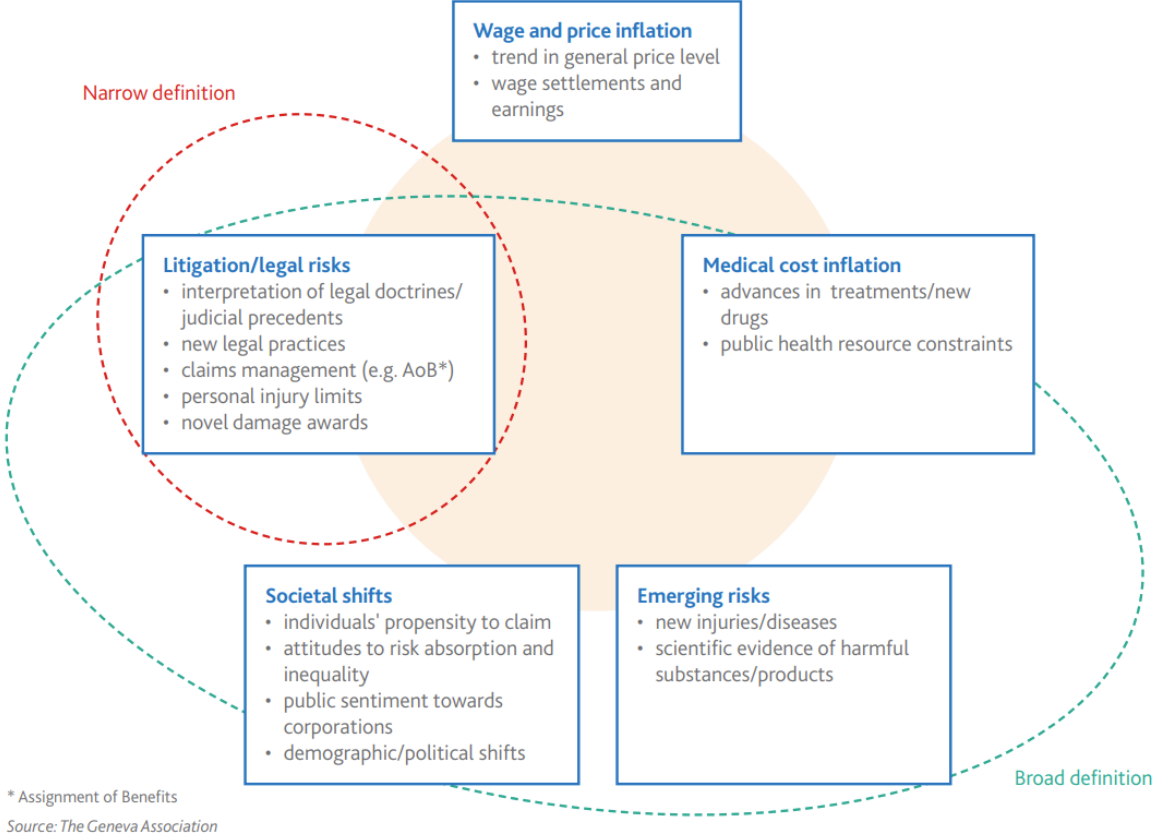
**Mitsubishi 100% Liable**

**Award?**

**\$980m**

# What is driving Nuclear & Thermonuclear Awards - Social Inflation?

Figure 1: A stylised typology of social inflation



The Geneva Association

1

# What causes Social Inflation?

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Anti-corporate sentiment with jurors

Normalization of large verdicts

Litigation funding and an organized plaintiff's bar

According to the [Edelman Trust Barometer](#), ... only 1 in 5 people believe "the system is working for them."

40% of millennials see corporations as a source of fear. They don't even think their good deeds are genuine – 49% of millennials believe that corporations are only undertaking philanthropic efforts for tax benefits.



# Plaintiff Tactics



Reptilian Theory



Plaintiff Anchoring



Third Party Litigation Funding



Join the Many TV Spot, "Roundup." Source: iSpot.tv. Aired Apr. 11, 2022 to July 10, 2022.



Miller & Zois Attorneys at Law, "\$110 Million Verdict in 3M Earplugs Bellwether Trial." Source: YouTube. Posted Jan. 28, 2022.



Arnold & Itkin LLP TV Spot, "Ovarian Cancer Linked to Talcum Powder." Source: iSpot.tv. Aired June 1, 2020 to Dec. 21, 2020.



Goldwater Law Firm TV Spot, "Xarelto and Pradaxa Internal Bleeding." Sources iSpot.tv and YouTube. Aired Oct. 5, 2015 to Mar. 4, 2016.

## Marketing Strategies



# Defence Tactics

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Value of \$



Defendant Anchoring



Disclosure of Third-Party funding



Structured Settlements



Pre-Trial Actions



Trial Actions

# Is there a Silver Lining?

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- Reduction of verdicts and pre-verdict settlement
  - Verdict against Monsanto finding Roundup caused groundskeeper's cancer was reduced from \$289 million to \$78 million post-trial
  - Due to cap on punitive damages, verdict against hog farm for causing nuisance to neighbors for \$473 million reduced to \$94 million in North Carolina
  - In J&J opioid trial in Oklahoma, Purdue and Teva settled out of court for combined \$355 million w/o admitting wrongdoing (compared to finding of liability and verdict for \$572.6 million for J&J)
  - Payout in brain-damaged baby case in Cook County reduced from jury verdict of \$101 million to \$50 million by pre-verdict agreement in which defendant medical center agreed not to appeal

## Legislation

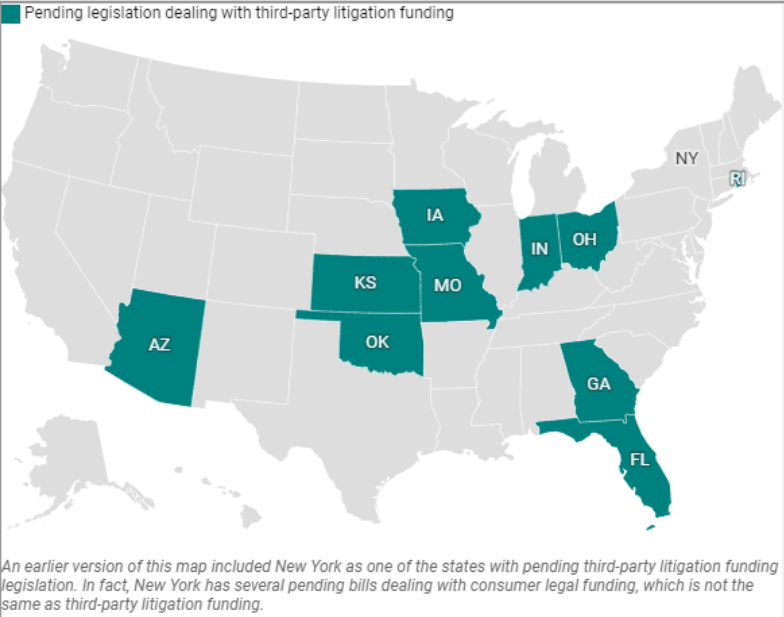
**Florida Tort Reform Act 2023** - a piece of legislation aimed at reforming the state's tort laws. Its general purpose is to address concerns regarding excessive damages awarded in certain cases, and rising insurance costs. Under the new law, if a plaintiff is found to be 51% or more at fault, they will be unable to recover any damages.

# Is there a Silver Lining?

## Third Party Litigation Funding (TPLF) – Disclosure requirements

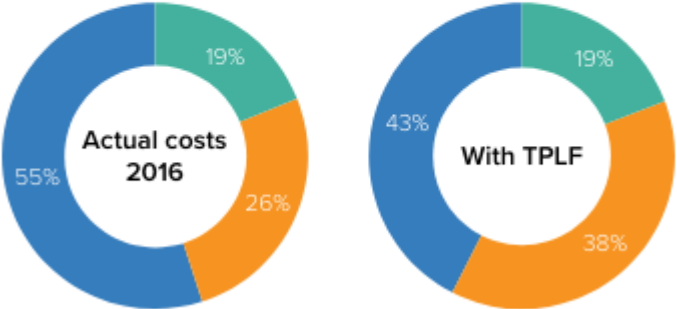
A number of US states now require the disclosure of Third Party Litigation Funding.

A further 10 states are considering a statutory requirement of disclosure.



### Distribution of Tort System Costs

- Plaintiffs' compensation
- Plaintiffs' legal costs (includes TPLF)
- Defendants' legal costs



Source: Swiss Re, Institute for Legal Reform, Research Nester.

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