



Info@APassociation.org
275 Zilg Drive, Toms River, NJ
APassociation.org

Justifiable Grievances

New Analysis of Regulatory Complaint Data Suggests High Rates of Litigation in Florida Homeowners Insurance Market are Driven by Substantial Claims Payment Issues, not Frivolous Lawsuits

** A majority of confirmed consumer complaints against homeowner insurance companies in the US were filed against Florida companies in recent years*

** Florida homeowner insurers are the subjects of complaints at a rate that is six to seven times the national average*

** The impact of litigation on premium increases and insurer solvency appears to have been exaggerated as evidenced by Florida Division of Financial Services reports, industry experts, and insurers' own financial statements.*

** The regulator who pointed the finger at frivolous lawsuits – despite overwhelming evidence of insurance company misconduct – took lucrative industry jobs after suddenly resigning*

November 2023

Table of Contents

Introduction	2
Key Findings	4
Part I: Florida homeowners insurers are far more likely to be the subjects of confirmed consumer complaints to regulators	6
Background	6
Findings	7
Table 1. Florida Homeowners Insurance Companies Subject to the Most Confirmed Consumer Complaints, 2021	9
Table 2. Florida Homeowners Insurance Companies Subject to the Most Confirmed Consumer Complaints, 2022	10
Table 3. Complaints to FL OIR by Insurance Product Type, 2019	13
Part II: A Flawed Analysis of Litigation Data	15
Table 4. Claims paid beyond 60 days: Florida more than double national rate 4 out of last 6 years	17
Part III: Is the false narrative of frivolous litigation diverting attention from criminal insurer fraud?	21
Conclusion	23

Introduction

In April 2021, Florida insurance commissioner David Altmaier released a letter claiming that Florida accounted for three quarters of homeowners insurance lawsuits in the US.¹ The claim was based on a Florida Office of Insurance Regulation (OIR) analysis of data collected by the National Association of Insurance Commissioners (NAIC), the insurance regulators' association where Altmaier was president at the time.

The number has been cited numerous times to support the argument – put forward by Altmaier and many public officials in Florida, as well as insurance companies and their lobbyists – that the primary driver of the crisis in the homeowners insurance market is rising litigation costs, and that cracking down on frivolous and excessive litigation will bring those costs down and restore stability to the market.

The consequences of this argument have been significant. For one, Florida has implemented legislative reforms that significantly reduce the rights of consumers to seek legal recourse against insurance providers. Second, the overriding focus of reform efforts has been on reducing litigation costs, rather than looking at a broader set of issues. Ultimately, this false narrative serves to conceal insurance carrier-side dynamics that would otherwise be exposed and addressed. As a result, Florida's homeowners insurance crisis shows no signs of abating.

What if the disproportionately high rate of litigation was actually being driven by disproportionately high rates of wrongful claims denials, delays, and other abuses in the Florida homeowners insurers market? In other words, what if high rates of litigation were being driven by legitimate grievances? And what if there was independent data to support this theory?

This report identifies and analyzes just such a data set: data on consumer complaints to regulators from the OIR and the NAIC. The regulatory complaint process is entirely separate from the litigation process, and provides independent evidence that consumers have legitimate grievances with how Florida homeowners insurers are conducting themselves. Though publicly available, until now this kind of analysis of Florida complaint data has not been conducted.

The report shows that the rates of consumer complaints against Florida homeowners insurers are extremely high: **30 Florida homeowners insurers accounted for the majority of closed, confirmed consumer complaints against homeowners insurers in the US: 61% of all complaints, nationwide, in 2021, and 56% in 2022.** Though somewhat lower than the litigation statistic of 78%, these are similarly disproportionate numbers, and provide an additional indicator that policyholder abuse and mistreatment is occurring at an extremely high rate in Florida.

In addition to analyzing complaint data, the report also:

¹ <https://www.flair.com/siteDocuments/ChairIngoglia04022021.pdf>

- Summarizes whistleblower reports and other evidence that suggests that the systematic delay, denial, and underpayment of homeowners insurance claims in Florida may rise to the level of criminal insurer fraud, and should be investigated as such.
- Examines OIR's claims and arguments: identifying a number of issues with them, adding additional context and data that OIR ignored, and providing new details on how lucrative Altmaier's revolving door move into the insurance industry has been.

Though this report is offering an analysis of confirmed consumer complaint data for Florida homeowners insurers for the first time, it is worth noting that this data was available to state insurance regulators – it could have prompted inquiries into why complaint rates were high, which may have also shed light on why litigation rates were so high as well. Far more work needs to be done to understand this data and its implications for the regulatory and policymaking process.

The report concludes with a number of recommendations for regulators, legislators, and law enforcement officials in Florida, as well as for the media outlets that have amplified OIR's claims and arguments without offering the important context detailed in this report.

Key Findings

- **Florida homeowners insurers are the subjects of a majority of all confirmed consumer complaints against homeowners insurers in the US – 56% in 2022 and 61% in 2021.** NAIC regulatory complaint data for 30 Florida insurers shows that they account for a majority of all closed, confirmed complaints in the US, despite having an 8% share of the market. This suggests that abuses are rampant in the homeowners insurance market in Florida, as compared with other states. The high number of complaints is also notable because the complaint filing process is not particularly easy or well-advertised in Florida.
- **Florida homeowners insurers are far more likely to be the subject of complaints to regulators than insurers in other sectors in Florida.** Homeowners insurance accounts for 7.5% of all insurance premium dollars in Florida, but was the subject of 45% of confirmed complaints in 2019, and 95% of all confirmed complaints in 2020. This suggests that abuses are far more widespread in the homeowners insurance market than other insurance sectors in Florida.
- **Several of the companies that account for a disproportionate number of the complaints have paid out excessive sums to top executives over the years.** The same companies leading the industry in terms of consumer complaint volume had been paying executives some of the largest compensation packages in the country for years. For instance, Universal Property & Casualty led all Florida insurers in terms of number of confirmed consumer complaints in 2021 and 2022, accounting for a staggering 17% of complaints in the US in 2021, despite having just a 1.5% market share. Universal Insurance's CEO was the highest paid property and casualty executive in the country in 2017, receiving \$19.3 million in compensation.
- **The data set OIR used to analyze litigation rates is not publicly available, so it is not possible to replicate its calculation, but it is likely somewhat inflated.** New York and North Dakota are not included in the data, and there appears to be uneven reporting in the data.
- **OIR ignored clear signs that Florida homeowners insurers are extremely slow to settle claims – an indicator that consumer abuses are occurring, which would drive up litigation levels.** Publicly-available summary tables in the NAIC data that OIR analyzed show that Florida homeowners insurers are especially slow to settle claims compared with homeowners insurers in other states.
- **Consider the source: Altmaier cashed in on his industry-friendly regulatory experience as soon as he resigned as commissioner.** Altmaier was appointed director of insurer/reinsurer Aspen Limited shortly after leaving OIR. Aspen paid non-

executive directors an average of \$400,000 in 2022. This would be more than twice Altmaier's salary as commissioner, all for part-time board service. He also joined the Southern Group, a lobbying firm with many insurance industry clients, and currently has two insurance industry clients. He resigned his position just prior to the initiation of a 6-year cooling-off period, during which former regulators cannot lobby their old agencies, took effect.

Part I: Florida homeowners insurers are far more likely to be the subjects of confirmed consumer complaints to regulators

While litigation data is not public, data on regulatory complaints against insurers is publicly-accessible. This data, which is collected and published by both OIR and the NAIC, suggests that:

- Abuses are far more widespread in the homeowners insurance sector than other insurance sectors in the state.
- Some Florida homeowners insurers are targeted by a disproportionate number of complaints.
- Florida homeowners insurers are far more likely to be targeted by consumer complaints than their peers in other states.

The complaint data paints a picture of a Florida homeowners insurance industry that has an extremely poor record with consumers. It suggests that litigation is occurring at a much higher rate in the state because consumers are being ripped off – so much so that they file justified complaints with regulators at extremely high rates, in addition to filing lawsuits.

Background

As context, regulators in every state have processes through which consumers can file formal complaints against their insurers. In Florida, complaints are filed with the Department of Financial Services' Division of Consumer Services. State regulators collect data on complaints, including breakdowns of the number of complaints per insurer, and then provide that data to the NAIC. The NAIC then publishes company profiles that include the complaint data, which are intended to inform consumers' choices of insurance companies.

The complaint data includes only confirmed, closed complaints – essentially meaning that the insurer was found to have committed either a violation or error.²

These are regulatory complaints, independent of the litigation process, and provide another indicator of whether consumers are suffering abuses at the hands of their insurance providers. The process of filing complaints is not particularly easy or accessible in most states, though it has gotten even harder in Florida in recent years – the state's complaint hotline is now only open three hours each day.³

Data on closed, confirmed consumer complaints against insurance companies are published by the Florida Office of Insurance Regulation (OIR) in its annual report. The most recent data

² https://content.naic.org/cis_agg_disposition.htm

³ <https://www.tampabay.com/news/florida-politics/2023/03/29/florida-insurance-premiums-rates-helpline-patronis/>

shared publicly by the OIR is for 2020, included in its most recent annual report (2021). Unfortunately, that data was extremely limited, though data for the previous year, 2019, appears to be more robust.⁴

To get a more recent picture of the rate of complaints in Florida, it is necessary to draw on the data that is compiled by the NAIC for insurers in every state. The [NAIC database](#) includes complaint data for 2020-2022, including on the number of complaints against the company and other helpful indicators, such as the complaint index for the company.⁵

This *complaint index* is the ratio of the company's share of complaints to its share of market premium – in other words, it gives a measure of how the rate of complaints against the company compares with the average complaint rate for its peers in the sector, or within the insurance industry overall. For example, a complaint index of 5.0 would indicate that a company receives five times as many complaints as the average, and a complaint index of 0.5 would indicate that the company receives half as many complaints. The complaint index can be used to compare the company, or a set of companies, against the rest of the homeowners insurance sector or the insurance market overall.

The NAIC database is somewhat limited in that it does not include a state-by-state breakdown of where the companies draw premiums from, though it does include some state-level data on where complaints are originating from. Additionally, it is intended to inform consumers about specific insurers, but it does not release the data in a bulk format which would facilitate more thorough analysis. To collect data on a set of insurers, it is necessary to look them up, one by one. It is a labor-intensive and not particularly user-friendly process.

By cross-referencing the list of the companies included in OIR annual reports with the NAIC database, it is possible to generate more up-to-date complaint data for Florida homeowners insurance companies, through 2022. Additionally, we can use this data to compare the rates of complaints against homeowners insurance companies in Florida with the homeowners insurance sector nationally.

Findings

The below tables include data drawn from the NAIC for homeowners insurance companies in Florida, for 2021 and 2022. The 15 Florida homeowners insurers with the highest number of complaints are shown. Additionally, summary data is shown for the top 30 companies (by number of complaints), which together account for roughly 75% of market premium in Florida.

⁴ Annual reports can be found here: <https://floiir.com/resources-and-reports/annual-report>

⁵ The database can be accessed here: https://content.naic.org/cis_consumer_information.htm An example page, for Universal Property & Casualty, can be found here: https://content.naic.org/cis_refined_results.htm?TABLEAU=CIS_COMPLAINTS&COCODE=10861&REALM=PROD&COCODE=10861&REALM=PROD

The premium and complaint totals shown are for the companies' premium and complaints nationally, and the shares of premium and shares of complaints total are also for the share of premium and complaints nationally in the homeowners insurance sector, because this is the data published on the NAIC website. That said, the below insurers' businesses are highly concentrated in Florida, and 96% of complaints against the companies originated in Florida.⁶ Companies that had a majority of complaints originating outside Florida, an indicator that most of their business was likely conducted outside the state, were excluded from the list.⁷

⁶ The NAIC database provides complaint totals by state, but there is a small discrepancy between total complaint figures – the NAIC does not explain why the numbers for the states, when added together, do not always equal the total complaint numbers.

⁷ The companies excluded due to a majority of complaints originating outside Florida – an indicator that less of their business is concentrated in Florida – were USAA, American Strategic (Progressive), Foremost Insurance, and Geovera Specialty.

Table 1. Florida Homeowners Insurance Companies Subject to the Most Confirmed Consumer Complaints, 2021

Company	# Complaints	Share of all complaints	Premiums	Share of premiums	Complaint index
UNIVERSAL PROP & CAS INS	3,970	17.84%	\$1,576,077,525	1.32%	13.56
UNITED PROP & CAS INS CO	1,083	4.87%	\$548,521,139	0.46%	10.62
SECURITY FIRST INS CO	874	3.93%	\$305,827,393	0.26%	15.38
CITIZENS PROP INS CORP	859	3.86%	\$1,260,866,225	1.05%	3.67
HERITAGE PROP & CAS INS CO	678	3.05%	\$493,580,210	0.41%	7.39
ST JOHNS INS CO INC	600	2.70%	\$0	0.00%	N/A
STATE FARM FL INS CO	593	2.66%	\$825,871,592	0.69%	3.86
FEDNAT INS CO	539	2.42%	\$504,190,831	0.42%	5.75
AMERICAN INTEGRITY INS CO OF FL	523	2.35%	\$342,251,581	0.29%	8.22
SOUTHERN FIDELITY INS CO INC	407	1.83%	\$210,510,450	0.18%	10.40
ASI PREFERRED INS CORP	368	1.65%	\$440,345,160	0.37%	4.50
HOMEOWNERS CHOICE PROP & CAS	344	1.55%	\$317,504,575	0.27%	5.83
FIRST PROTECTIVE INS CO	340	1.53%	\$598,753,120	0.50%	3.06
AVATAR PROP & CAS INS CO	238	1.07%	\$63,934,831	0.05%	20.03
TOWER HILL PRIME INS CO	213	0.96%	\$154,252,826	0.13%	7.43
Total for top 5	7,464	33.54%	\$4,184,872,492	3.49%	9.60
Total for top 15*	11,629	52.25%	\$7,642,487,458	6.38%	7.77
Total for top 30*	13,490	60.61%	\$8,181,332,349	8.15%	7.04

Notes (for 2021 & 2022 tables): Totals shown are for all complaints and premium nationally, since this is the data the NAIC shares, but these companies' businesses are overwhelmingly concentrated in Florida. Complaint indexes are not given for companies with no premium, and total complaint indexes exclude data for companies that have no premium.

* Top 15 excludes USAA. Top 30 also excludes American Strategic and Geovera Specialty.

Table 2. Florida Homeowners Insurance Companies Subject to the Most Confirmed Consumer Complaints, 2022

Company	# Complaints	Share of all complaints	Premiums	Share of premiums	Complaint index
UNIVERSAL PROP & CAS INS	2,880	14.31%	\$1,723,640,347	1.29%	11.09
CITIZENS PROP INS CORP	1,455	7.23%	\$2,257,368,054	1.69%	4.28
UNITED PROP & CAS INS CO	1,051	5.22%	\$0	0.00%	N/A
STATE FARM FL INS CO	789	3.92%	\$963,434,952	0.72%	5.44
SECURITY FIRST INS CO	635	3.15%	\$310,526,128	0.23%	13.58
HERITAGE PROP & CAS INS CO	574	2.85%	\$499,390,042	0.37%	7.63
AMERICAN INTEGRITY INS CO OF FL	523	2.50%	\$392,146,029	0.29%	8.51
ASI PREFERRED INS CORP	513	2.55%	\$460,990,077	0.34%	7.39
SOUTHERN FIDELITY INS CO INC	319	1.58%	\$0	0.00%	N/A
FIRST PROTECTIVE INS CO	315	1.56%	\$766,067,033	0.57%	2.73
FEDNAT INS CO	277	1.38%	\$0	0.00%	N/A
CASTLE KEY IND CO	222	1.10%	\$355,525,487	0.27%	4.15
HOMEOWNERS CHOICE PROP & CAS	207	1.03%	\$352,947,889	0.26%	3.89
PEOPLES TRUST INS CO	168	0.83%	\$186,482,352	0.14%	5.98
EDISON INS CO	144	0.72%	\$329,055,035	0.25%	2.91
Total for top 5	6,810	33.83%	\$5,254,969,481	3.93%	7.28
Total for top 15*	10,072	49.93%	\$8,597,573,425	6.43%	6.49
Total for top 30*	11,470	56.88%	\$10,369,773,029	7.76%	6.28

Notes (for 2021 & 2022 tables): Totals shown are for all complaints and premium nationally, since this is the data the NAIC shares, but these companies' businesses are overwhelmingly concentrated in Florida. Complaint indexes are not given for companies with no premium, and total complaint indexes exclude data for companies that have no premium.

* Top 15 excludes USAA, top 30 also excludes Gulfstream, American Strategic, and Geovera Specialty. These companies had a majority of complaints in other states, indicating that their businesses are concentrated outside the state.

The tables paint a picture of a Florida homeowners insurance market with an extremely high level of consumer complaints. Several things stand out:

- **A majority of all consumer complaints in the US against homeowners insurance companies concern Florida insurers.** The 30 Florida insurers receiving the most complaints have a roughly 8% share of the homeowners insurance market nationally, but in 2021 they were the subject of 61% of consumer complaints, and in 2022 were the subject of 57% of complaints. This translates into an overall complaint index of 7 in 2021, and 6 in 2022 – in other words, they were six to seven times more likely to be the subject of complaints to regulators than the average company, nationally.
- **The 30 Florida insurers with the most complaints have an average of six times the national average of complaints, and five companies have more than ten times the national average.** These complaint numbers are far out of proportion with the companies' market shares. What have Florida regulators and legislators done to investigate and address this extreme disparity?
- **The five Florida homeowners insurance companies targeted by the most consumer complaints in 2021 and 2022 accounted for one-third of all complaints against homeowner insurers in the US.** In 2021, Universal Property & Casualty, United Property & Casualty, Security First, Citizens Property Insurance, and Heritage Property & Casualty were the subject of 7,464 consumer complaints to regulators, 33.54% of all such complaints in the US. In 2022, Universal Property & Casualty, Citizens Property Insurance, United Property & Casualty, State Farm, and Security First were the subject of 6,810 consumer complaints to regulators, 33.83% of all complaints nationally.
- **The 15 subjects of consumer complaints accounted for half of all such complaints in the US in 2021 and 2022.** In 2021, 52.25% of all policyholders' complaints against homeowners insurance companies were filed against the 15 Florida insurers. In 2022, the share was 49.93%.
- **Some companies receive numbers of complaints that are extremely out of proportion with their share of the market.** Remarkably, Universal Property & Casualty, the top target of complaints in both years, has just a 1.3% share of the market, but was targeted by 3,970 complaints, or 18% of all consumer complaints in the US in 2021, and 2,880 complaints, or 14% of all complaints in the US in 2022. It had a complaint index of 13.56 in 2021 and 11.09 in 2022 (meaning that the frequency of complaints was 13 and 11 times higher than what would be expected based on their share of the market, and compared to the average homeowner insurer). These anomalies could lend support to Birnbaum's hypothesis that a relatively small number of bad actors are being targeted by most of the litigation.

- **Several of the worst performers, in terms of receiving consumer complaints, also have a history of paying out excessive dividends and compensation packages to their shareholders and executives.** Three of the six companies receiving the most complaints – Universal Property & Casualty, United Property & Casualty, and Heritage Property & Casualty – have made headlines for the exorbitant sums their holding companies paid out. In 2017, Universal Insurance CEO Sean Downes was paid \$19.3 million – more than any other property and casualty insurance executive in the country, and more than the CEOs of much, much larger insurance companies, such as Allstate.⁸ Heritage Insurance paid its CEO, Bruce Lucas, \$27 million in 2015 and nearly \$80 million from 2013-2020. United Insurance CEO Daniel Peed took in \$4 million a year in stock dividends despite his company’s serious financial woes, until the company finally stopped paying dividends in 2022 (its Florida homeowners subsidiary, United Property & Casualty, failed later that year). In other words, the same companies that are the subjects of consumer complaints at a much higher rate than their peers have also paid out compensation far out of line with industry standards.

Further evidence that policyholder mistreatment is rampant in the homeowners insurance sector can be found in complaint data published by OIR for 2019 and 2020, the most recent years for which OIR has published the data. This data does not afford opportunities for the same kind of national comparisons, but it does identify companies that are targeted by the most complaints, and can also be used to compare the rates of complaints against the homeowners insurance sector with other insurance sectors in the state.

If the high numbers of complaints against homeowner insurers were simply a function of Florida consumers’ and lawyers’ propensity for frivolous complaining (and litigating), as well as a legal structure that facilitates that behavior, complaint rates in the homeowners sector would not be far out of line with other insurance sectors. But if there is something uniquely dysfunctional about the homeowners insurance market in the state, complaint rates should be much higher for the homeowners sector compared with other sectors.

The data shows that the latter is the case – homeowners insurers are the subjects of far more consumer complaints to regulators than other types of insurers in Florida.

The below table summarizes complaint data drawn from the 2020 annual report, for 2019.

⁸ <https://www.tampabay.com/news/florida-politics/2022/12/11/property-insurance-compensation-executives-legislature-special-session/>

Table 3. Complaints to FL OIR by Insurance Product Type, 2019

Insurance product type	Number of complaints	Product type premium	Share of all insurance complaints	Share of all insurance premium	Complaint Index
Homeowner	6,858	\$9,096,102,684	44.94%	7.50%	5.99
Long term care	154	\$693,151,765	1.01%	0.57%	1.77
Private passenger	3,811	\$20,668,273,351	24.97%	17.05%	1.47
Individual life	1,058	\$9,106,626,913	6.93%	7.51%	0.92
Individual accident and health	1,523	\$16,253,170,551	9.98%	13.40%	0.74
Fidelity and surety	32	\$473,906,073	0.21%	0.39%	0.54
Commercial auto	219	\$3,265,546,340	1.44%	2.69%	0.53
Commercial property	179	\$3,121,387,759	1.17%	2.57%	0.46
Group accident and health	926	\$20,484,474,015	6.07%	16.89%	0.36
Group life	64	\$1,730,624,438	0.42%	1.43%	0.29
Medicare supplement	64	\$2,321,871,467	0.42%	1.91%	0.22
Commercial liability	173	\$7,185,504,652	1.13%	5.93%	0.19
Title	33	\$1,631,554,202	0.22%	1.35%	0.16
Workers compensation	46	\$3,115,574,788	0.30%	2.57%	0.12
Individual annuity	120	\$17,701,452,001	0.79%	14.60%	0.05
Credit	0	\$153,961,011	0.00%	0.13%	0.00
Group annuity	0	\$3,605,437,550	0.00%	2.97%	0.00
Medical professional liability	0	\$647,865,247	0.00%	0.53%	0.00
Total	15,260	\$121,256,484,807			

The data shows that homeowners insurers were much more likely to be the subjects of consumer complaints than other types of insurers in Florida. The complaint index for the homeowners sector in 2019 was 5.99, meaning that the sector was the subject of roughly six

times more complaints than one would expect, based on its share of total insurance market premium in the state. The sector had just a 7.5% share of all insurance premium, but was the subject of 45% of all consumer complaints to Florida regulators. The long term care insurance sector had the next highest complaint index, at 1.77.

Notably, the homeowners insurance complaint index of 6 is roughly in line with the complaint index found above, for the Florida homeowners insurance sector compared with the homeowners insurance sector nationally. This suggests that abuses are similarly disproportionate both within the state, compared with other sectors, and nationally, compared with other homeowners insurance companies.

As noted above, there appear to be gaps in the complaint data for 2020 included in the OIR's 2021 annual report. The OIR reports extremely low numbers of complaints in 2020: 193 total complaints against insurers, compared with 15,260 in 2019. This is perhaps due to pandemic-related barriers to filing or processing complaints, but OIR does not provide any explanation for the number of complaints fell so sharply.

Still, it is remarkable that fully 96% of insurance complaints filed in 2020 were filed against homeowners insurance companies – 184 out of the 193 total complaints.

Part II: A Flawed Analysis of Litigation Data

The following section summarizes significant issues with the OIR's analysis of NAIC data, including issues with the data itself, OIR's choice to ignore data that would run counter to its argument – data that in fact suggests there are significant consumer abuses in Florida's homeowners insurance market – and former OIR commissioner David Altmaier's lucrative move through the revolving door.

- **There is no public access to the data used to produce the claim.**

The OIR's statistic, that three quarters of all homeowners' suits in the US are filed in Florida, is based on an analysis of data from the Market Conduct Annual Statement (MCAS). Insurance companies submit MCAS data to state regulators each year, which in turn submit the data to the NAIC. The data is confidential, since it is currently collected under the regulators' authority to monitor market conduct. This means that the public has no access to the data, and therefore it is impossible to replicate Altmaier's calculation.

In an analysis of Altmaier's claims, economist and former insurance regulator Birny Birnbaum has noted that none of the information collected in the MCAS could be considered to qualify as a trade secret, and "there is no rationale for keeping individual insurer MCAS data confidential."⁹ In fact, Birnbaum argues, the MCAS data on insurers should be made public to better inform consumer choice about the relative performance of insurance companies.

- **There are gaps in the data used to produce the claim.**

There are some gaps in the MCAS data that likely had the effect of somewhat inflating the OIR's claim.

For one, the MCAS data does not include New York State or North Dakota. Combined, the states represent about 5% of the homeowners insurance market.¹⁰ Their inclusion in the analysis would have the effect of lowering Florida's share of litigation.

Second, there are enough issues with the data that the NAIC itself does not endorse the use of the MCAS data for calculations like Altmaier's. In fact, NAIC requires that the statement "The NAIC and individual states do not endorse any subsequent use of the MCAS scorecard data" be included in any publication that makes use of the data, listing a number of reasons why it cannot guarantee the completeness or accuracy of the scorecard data: smaller companies are

⁹ Birny Birnbaum, "Review of NAIC Market Conduct Analysis Statement Data in April 2, 2021 Letter from FLOIR to Chairman Ingoglia Prepared by Birny Birnbaum, Consulting Economist," April 16, 2021.

¹⁰ See New York (5.22%) and North Dakota (0.22%):

<https://content.naic.org/sites/default/files/publications-key-facts-market-trends-north-dakota.pdf>

excluded, companies revise the data they provide, and the NAIC and regulators cannot guarantee the completeness or accuracy of data provided by reporting companies.¹¹

Altmaier, who was then president of the NAIC, did not note this in the text of his letter, though the above qualifying sentence did appear in the context of a barely-legible screenshot of the text on the NAIC's website. Altmaier's letter instead implies an endorsement from the NAIC – that the methodology OIR used was “validated” with NAIC staff.

- **The analysis ignores other MCAS data that indicates significant claims handling issues in Florida, as well as the likelihood that the litigation is concentrated among a relatively small number of companies.**

Birnbaum's analysis notes that the OIR ignored other publicly-available MCAS data that indicates the Florida homeowners insurance market is plagued by significant claims handling issues. Additionally, Birnbaum uses the MCAS data to show that high levels of litigation in Florida may be concentrated among a relative handful of insurers.

As context, the OIR's letter stated that “we analyzed the litigation to claims ratio of insurers operating in Florida and other states to see if we detected a pattern of these insurers experiencing litigation higher than their peers in other states; a potential indicator of, inter alia, claims handling issues.” OIR found that these insurers were not experiencing higher levels of litigation in other states, relative to their peers. Based on this, it dismissed the possibility that the high levels of litigation in Florida were due to actual claims handling issues.

On its face, this is a tenuous argument. It implies that companies use the same business practices across jurisdictions regardless of the regulatory and legal frameworks they are navigating, not to mention the varying market conditions they face. It is similar to suggesting that one would expect a driver to drive at the same speed regardless of the speed limit, road conditions, and whether the highway is being patrolled. But Birnbaum also points to other MCAS scorecard data that indicates homeowner insurers are particularly slow to settle claims in Florida, relative to other states – which suggests that there are, in fact, clear claims handling issues underlying the high rates of litigation in the state. Birnbaum points out that Florida's

¹¹ The full statement reads as follows: “Users of the MCAS Scorecard data should be aware of the following: (1) Only companies that meet the Market Conduct Annual Statement (MCAS) reporting threshold are required to submit MCAS data. (2) Reporting companies may revise their reported data when errors are discovered. Consequently, statewide ratios reported for one year may change as revised data are submitted by reporting companies. (3) While the jurisdictions that participate in the MCAS and the NAIC make every effort to ensure that reporting companies submit complete and accurate data, the NAIC and the jurisdictions that participate in the MCAS make no representations, guarantees or warranties with respect to the accuracy or completeness of the data and statistics in scorecards. (4) The NAIC and the jurisdictions participating in the MCAS are not responsible for any calculations or products based upon the scorecard data and any use of these scorecard data must be accompanied by a statement, ‘The NAIC and individual states do not endorse any calculation or subsequent use of the MCAS scorecard data.’ “

claims handling rate (Ratio 3 in the MCAS data) is nearly double that of California for 2019, noting that “[t]his translates into tens of thousands of slowly settled claims in Florida.”

In fact, Florida insurers’ rate of claims paid beyond 60 days is consistently about double that of the national average, as shown in the table below.

Table 4. Claims paid beyond 60 days: Florida more than double national rate 4 out of last 6 years				
	Florida		Average for all states	Ratio of Florida to Average
2018	36.84%		22.57%	1.63
2019	50.57%		21.57%	2.34
2020	42.23%		19.75%	2.14
2021	53.88%		22.50%	2.39
2022	39.05%		22.09%	1.77
Average	44.51%		21.70%	2.06

Source: MCAS scorecards for homeowners insurance, 2018-2022, available here: https://content.naic.org/mcas_data_dashboard.htm Averages were calculated by averaging the rates for all states for which the NAIC provides data.

Altmaier and OIR made no reference to this data in their analysis of high litigation rates. It provides a clear indicator of systemic claims handling issues, which would have conflicted with the narrative that frivolous litigation was to blame.

Furthermore, Birnbaum points to MCAS Ratio 7 – which shows the ratio of lawsuits to claims closed without payment – to suggest that rates of high litigation are concentrated among a relatively small number of insurers.¹²

Birnbaum suggests that poor regulation may be at the root of these issues: “While it is impossible to identify the cause of the poor consumer treatment by Florida insurers based on MCAS ratios, one possible explanation of higher amounts of litigation in Florida may be weak market conduct enforcement by the OIR, forcing consumers to fend for themselves in Florida for issues the insurance regulator addresses in other states.”

¹² Birnbaum, page 6.

- **Consider the source: Altmaier moved through the revolving door as soon as he resigned from his position, cashing in on his industry-friendly record.**

Shortly after resigning as Florida insurance commissioner, Altmaier joined the board of a large insurance/reinsurance company, Aspen Limited Insurance Holdings. Though the compensation Altmaier has received is not public, Aspen paid an average of \$400,000 in compensation to independent, non-executive directors in 2022.¹³ If Altmaier receives this amount, it would be more than double Altmaier's salary as insurance commissioner – a significant sum, especially considering that corporate board service is almost always a part-time role.

Altmaier also secured a job as a lobbyist for the Southern Group, a powerhouse Florida lobbying firm. Southern Group has many property and casualty insurance industry clients, including the American Property and Casualty Insurance Association, the Florida Insurance Council, and American Integrity Insurance. Currently, Altmaier's only two clients are drawn from the insurance industry, though not the homeowners insurance industry specifically – they are AHIP, the health insurance industry association, and the U.S. LawShield Legal Expense Corporation.

Altmaier resigned shortly before a Florida law took effect that imposed a six-year cooling off period for agency heads, during which they cannot lobby their former agencies. Altmaier is still subject to a two-year ban on lobbying his former agency, but he is allowed to lobby legislators.

Altmaier's revolving door move suggests that he had a potential conflict of interest during his time as regulator: while legally obligated to provide oversight of insurance companies in his role as the state's chief insurance regulator, he may have had a financial interest in aligning with the industry and advancing its favored narratives around the causes of Florida's insurance crisis.

- **Homeowners insurance companies in Florida routinely downplay the impact of litigation costs in their reports to shareholders.**

Though homeowners insurance companies like to promote the narrative that litigation is to blame for rising costs, in reports to shareholders the companies routinely downplay the impact of litigation costs on their bottom line. The following are disclosures regarding legal proceedings in three publicly-held Florida insurers, none of which suggest that management sees litigation as a major threat to the company's financial condition:

¹³ See page 108:

<https://www.sec.gov/ix?doc=/Archives/edgar/data/0001267395/000126739523000015/ahl-20221231.htm>

The company's four independent, non-executive directors received a total of \$1.6 million in aggregate compensation in 2022, an average of \$400,000 per director.

Heritage Insurance: “We are subject to routine legal proceedings in the ordinary course of business. We believe that the ultimate resolution of these matters will not have a material adverse effect on our business, financial condition or results of operations.”¹⁴

FedNat (from 2021 10-k, prior to bankruptcy): “We are subject to routine legal proceedings in the ordinary course of business. We believe that the ultimate resolution of these matters will not have a material adverse effect on our business, financial condition or results of operations.”¹⁵

Universal Insurance: “The Company currently estimates that the reasonably possible losses for legal proceedings, whether in excess of a related accrued liability or where there is no accrued liability, and for which the Company is able to estimate a possible loss, are immaterial.”¹⁶

- **A consumer representative at the NAIC has found zero indication of an increase in social inflation, or frivolous litigation, after an exhaustive review of all available evidence.**

The argument that litigation is driving Florida’s insurance crisis is part of a broader industry push, nationwide, to curb “social inflation.” This term refers to the idea that insurance companies are facing higher litigation costs as a result of rising levels of frivolous claims and unfair treatment in the courts.

The NAIC’s own consumer representative Ken Klein – a former business defense attorney and professor at California Western School of Law – conducted a presentation, “Unpacking Social Inflation,” at the NAIC’s summer meeting in 2022.¹⁷ In the presentation, he said that in a comprehensive review of industry data, he found no evidence of an overall increase in insurance litigation nationwide or in frivolous litigation. The following is a slide from his presentation:

¹⁴ Heritage Insurance 2022 10-k, page 25:

https://www.sec.gov/ix?doc=/Archives/edgar/data/1598665/000095017023007569/hrtg-20221231.htm#item_3_legal_proceedings

¹⁵ FedNat 2021 10-k, page 29:

https://www.sec.gov/ix?doc=/Archives/edgar/data/0001069996/000106999622000027/fnhc-20211231.htm#iff15d00cabb742378ddf267b191fbdca_25

¹⁶ Universal Insurance 2022 10-k, page 23:

https://www.sec.gov/ix?doc=/Archives/edgar/data/891166/000089116623000022/uve-20221231.htm#iefd99145096448008360ee0e1e96fab2_28

¹⁷

https://content.naic.org/sites/default/files/national_meeting/AttmtFive_Consumer_Social%20Inflation_ken_klein.pdf

In the end, after reading all industry published work I can find, ...

- **I cannot find any compelling data showing that there is an overall increase in insurance litigation at all** (either challenging claims denial or bad faith or subrogation).
- **I cannot find any compelling data showing that there is an increase in *frivolous* plaintiffs' insurance litigation** (meaning plaintiff's lawsuits unsupported by evidence).
- **I cannot find any compelling data establishing and quantifying the effect of alleged *frivolous* plaintiffs' insurance litigation** (meaning plaintiff's lawsuits unsupported by evidence) **on premiums.**
- **I cannot find any compelling data establishing and quantifying the effect of alleged *frivolous* plaintiffs' insurance litigation** (meaning plaintiff's lawsuits unsupported by evidence) **on insurer loss ratios.**

A slide from Ken Klein's presentation to the NAIC Summer Meeting, 2022.

Though Klein conducted his research on the national level, and was not focused on Florida specifically, the presentation suggests that the industry's narratives about excessive or frivolous litigation are not actually grounded in any real evidence.

While litigation rates in Florida are high, Altmaier, the OIR, and the industry have done nothing to demonstrate that this is due to excessive or frivolous litigation. And there is substantial evidence, detailed below, that Florida policyholders have a good reason to be taking legal action against their insurers.

Part III: Is the false narrative of frivolous litigation diverting attention from criminal insurer fraud?

The policyholder complaint data analyzed above clearly indicates that there are serious claims handling issues in Florida's homeowners insurance market. But the data is also very limited – it includes very little detail on the nature of the complaints, and why they were confirmed and closed. For instance, are most of the complaints due to unwarranted delays of claims, or denials and underpayments? What actions are being taken by regulators and insurers as a result of the complaints?

But aside from the complaint data, evidence of the kinds of practices insurers are engaging in to underpay and deny claims has emerged from other channels. Whistleblower and press reports have identified a range of practices used by insurers to sidestep the full recognition and payment of claims.

For instance, a recent *Washington Post* exposé of United Property & Casualty detailed how the company's adjusters were encouraged to go to great lengths to deny and under-pay claims:¹⁸

Adjusters working for UPC saw what was happening to homeowners on the inside. At the end of 2019, Lari Piscitelli joined the company as an independent adjuster to handle claims. He and other contractors grew increasingly alarmed at how their loss estimates were being cut and edited. Piscitelli and other adjusters said managers would tell them to join last-minute calls and give directives to essentially ignore what they were seeing during their inspections, to stop writing for full roof replacements and to not even use the word "damage" in their reports. They provided claims notes, voice mails and a text message to back up their assertions.

Piscitelli, who had been in the industry for six years, said the carrier seemed to spend more money fighting claims than paying them and was "playing games with everything."

The UPC reports were the subject of an American Policyholder Association's Consumer Protection Unit investigation which resulted in a criminal referral to the Florida Division of Financial Services in July of 2021 which was initially ignored. When more whistleblowers came forward with similar allegations, the APA resubmitted the referral with the additional evidence in January of 2022. To date, no criminal investigation appears to have been completed by the Florida DFS or OIR.

Additional whistleblower reports were highlighted in a May 2023 NBC Nightly News report, which exposed how insurance adjusters' reports on damages caused by Hurricane Ian were

¹⁸ <https://www.washingtonpost.com/climate-environment/2023/08/04/how-florida-let-top-insurer-abandon-homeowners-their-time-greatest-need/>

being altered significantly after they were submitted.¹⁹ One adjuster interviewed for the story said that of 44 of the 46 claims he turned in to one company were manipulated without his consent – including the removal of pictures and the reduction of loss estimates by tens of thousands of dollars. The total amount consumers were shorted may very well be in the millions.

These whistleblowers came forward to APA Board Advisor Steven Bush Esq & after an investigation by the APA's CPU a criminal referral was forwarded to the Florida DFS. As of the writing of this report, the referral is the subject of an active investigation.

These whistleblower reports suggest that claims handling issues in Florida are not the result of paperwork errors, and are potentially intentional attempts to defraud policyholders. In other words, these practices may rise to the level of criminal insurer fraud, and significant resources should be dedicated to investigating whether this is the case, holding insurance companies and their executives accountable, and addressing root causes of Florida's homeowners insurance crisis.

While homeowners suffer tremendous harm as a result of these potentially fraudulent practices, it is important to consider who has benefited: the executives and shareholders of Florida insurers, who have been able to reap hundreds of millions in compensation payouts and dividends. By shifting money out of regulated subsidiaries to holding companies and other unregulated affiliates, the companies have been able to move money away from policyholders, and into the pockets of top executives and shareholders. This resulted in extremely high pay packages for CEOs at companies like Heritage and Universal, and large dividend payouts for United's top shareholder, even as the company was on the verge of failing.

For too long, the false litigation narrative has distracted from potentially criminal insurer fraud on the part of Florida homeowners insurers companies. The business practices that have resulted in the underpayment of policyholders and the overpayment of insurance company executives need to be investigated to the fullest extent possible.

¹⁹ <https://www.nbcnews.com/nightly-news/video/florida-residents-say-insurance-struggles-from-hurricane-ian-persist-175777349679>

Conclusion

A number of recommendations flow from the above findings. First, media outlets in Florida should not continue to amplify claims about excessive litigation being a root cause of the state's homeowners insurance, and instead should add important context: that there is significant evidence, detailed above, that policyholder abuse is rampant in Florida's homeowners insurance market, which is likely driving high levels of litigation. Furthermore, media outlets should alert their audiences that the top insurance regulator responsible for spreading these claims has since landed multiple lucrative positions in the industry that he was supposed to be overseeing.

Additionally, relevant public officials – including Florida regulators, legislators, and law enforcement officials – should take the following steps:

- Make NAIC data transparent and publicly-accessible – including data obtained through the Market Conduct Annual Statement (MCAS) as well as complaint data. The NAIC currently publishes MCAS data in a summary format that does not include data on specific companies. It publishes complaint data at the company level, but not in an easily navigable or bulk format that would facilitate further analysis.
- Conduct investigations of Altmaier's conduct as OIR commissioner, including the nature and extent of his communications with the insurance industry during his efforts to point the finger at excessive litigation and prior to his revolving door move.
- Release more in-depth information on confirmed consumer complaints, including more specific details regarding the nature of the complaint and why it was confirmed and closed. Additional transparency would shed light on the Florida insurer practices that are generating so many complaints.
- Require insurance companies – including their holding companies and other unregulated affiliates – to disclose executive compensation, ownership dividends, contractual arrangements within the holding company structure, and holding company profits. Some of these disclosures are required by the SEC for publicly-traded corporations, but not for privately-held ones. Such disclosures would bring transparency to the extent of profit-shifting and profiteering at companies that have been delaying, denying, and underpaying on valid policyholder claims.
- Increase market conduct and criminal fraud investigations of insurers, their executives, and vendors. The wealth of complaint data at OIR could be used to identify bad actors and target companies that are engaging in policyholder mistreatment and abuse in a systematic and potentially criminal way.

- Address serious gaps in Florida’s regulatory oversight of homeowners insurers, including dedicating more resources to investigations of fraudulent and deceptive practices.
- Stabilize Florida’s homeowners insurance market by working to reduce consumer mistreatment and catastrophic risk exposure, through government intervention that mitigates risk and strengthens the overall regulatory framework.
- In order to restore consumer confidence in market integrity, elected officials with oversight of the insurance industry should voluntarily refuse campaign contributions from the industry, or at the very least publicly disclose the full scope of such contributions. The goal is to avoid not just impropriety, but the very appearance of impropriety to reassure consumers of the efficacy of regulatory enforcement systems.