

The Wide-Reaching Impacts of Social Inflation

How much is pain and suffering worth?

What does it take to adequately punish companies for negligence or wrongdoing?

The answers to these questions are not black and white – and that opens the door to social inflation and nuclear verdicts.

Understanding Social Inflation and Its Causes

Social inflation describes the upward trajectory of jury awards year after year. Nuclear verdicts are jury awards for very large amounts, especially those in excess of \$10 million.

According to [IRMI](#), social inflation is similar to other emerging risks, with one key difference: It is not the actual risk, but instead, the driver of increased costs associated with addressing other risks.

Social inflation is associated with trends in society and litigation. More specifically, [Travelers](#) has identified four key factors driving social inflation:

- Many people do not trust corporations, so jurors may be predisposed to siding with the plaintiff.
- Plaintiff attorneys are using more sophisticated tactics.
- Jurors are being influenced by emotion, and plaintiff attorneys are using the so-called “reptile theory” to leverage these emotions. This is a somewhat new strategy that uses fear to threaten a jury so the attack response is to punish the defendant.
- The legal environment is changing, both in terms of judicial appointments and legislative changes.

The [Insurance Information Institute](#) also points to an increase in class action lawsuits and litigation funding as a potential driver of social inflation. Litigation funding is a relatively new phenomenon where a third party can legally provide funds needed to litigate or arbitrate a claim. The hope is to then participate in any eventual recovery or proceeds if the claim results in a favorable judgment or settlement.

The Impact on Claims Costs and the Liability Insurance Market

Although many people have noticed that jury awards and claims costs are increasing, it can be difficult to pinpoint the exact impact of social inflation. However, recent research has aimed to do exactly that.

Nuclear verdicts and social inflation have been increasing, most notably in commercial auto. Data from the [American Transportation Research Institute](#) shows that verdict awards grew 51.7% between 2010 and 2018, far outpacing the standard inflation of rate of 1.7%.

Research from the [Casualty Actuarial Society](#) and the Insurance Information Institute also identified substantial costs that can be linked to social inflation. According to the report, social inflation increased commercial auto liability claims by \$20 billion between 2010 and 2019.

Social Inflation and Future Expectations

The insurance market has been hardening, and this trend can be seen across most, if not all lines in commercial insurance. Data from [MarketScout](#) shows that U.S. commercial insurance rates increased 6% in the first quarter of 2022. Some lines have seen especially high increases. Umbrella market rates increased 9.7%, for example, and commercial auto rates increased 7.3%. Although rate hikes have shown some signs of moderation, prices are still trending upward. At the same time, some insurers have been introducing new restrictions and tighter underwriting requirements.

Social inflation could exacerbate the hard market, and it doesn't look like this trend will reverse itself anytime soon. According to [Swiss Re](#), around \$17 billion was invested in litigation funding in 2020, and more than half of this was in the U.S. By 2028, third-party litigation funding could be a \$30 billion industry.

How to Prepare for the Social Inflation Trend

Business owners and their insurance brokers cannot afford to ignore the current trends. Social inflation is not expected to abate anytime soon, so take the following five steps to prepare now:

1. **Brace for higher rates and tighter underwriting.** Finding suitable coverage may be harder and more time-intensive than in past years.
2. **Consider purchasing higher liability limits.** With so many verdicts surpassing \$1 million, higher limits may be needed.
3. **Invest in safety.** Juries may punish companies for having policies and habits that appear to put profits over people, so companies need to be able to prove that they are going above and beyond when it comes to safety. Embrace policies and technologies that prioritize safety and make sure these efforts are well documented.
4. **Manage claims promptly and proactively.** Speed and empathy in file handling can help deescalate sensitive situations. [Genre.com](#) offers additional tips for evaluating problematic cases.
5. **Help raise awareness and advocate for reform.** Juries that side with individuals because they mistrust big corporations may feel differently if they know about third-party litigation funding and its impact on insurance. Help the general public understand the economic impact and ripple-effect of both litigation funding and nuclear verdicts.

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