2023 CARLTON FIELDS CLASS ACTION SURVEY

BEST PRACTICES IN REDUCING COST AND MANAGING RISK IN CLASS ACTION LITIGATION



CARLTON FIELDS

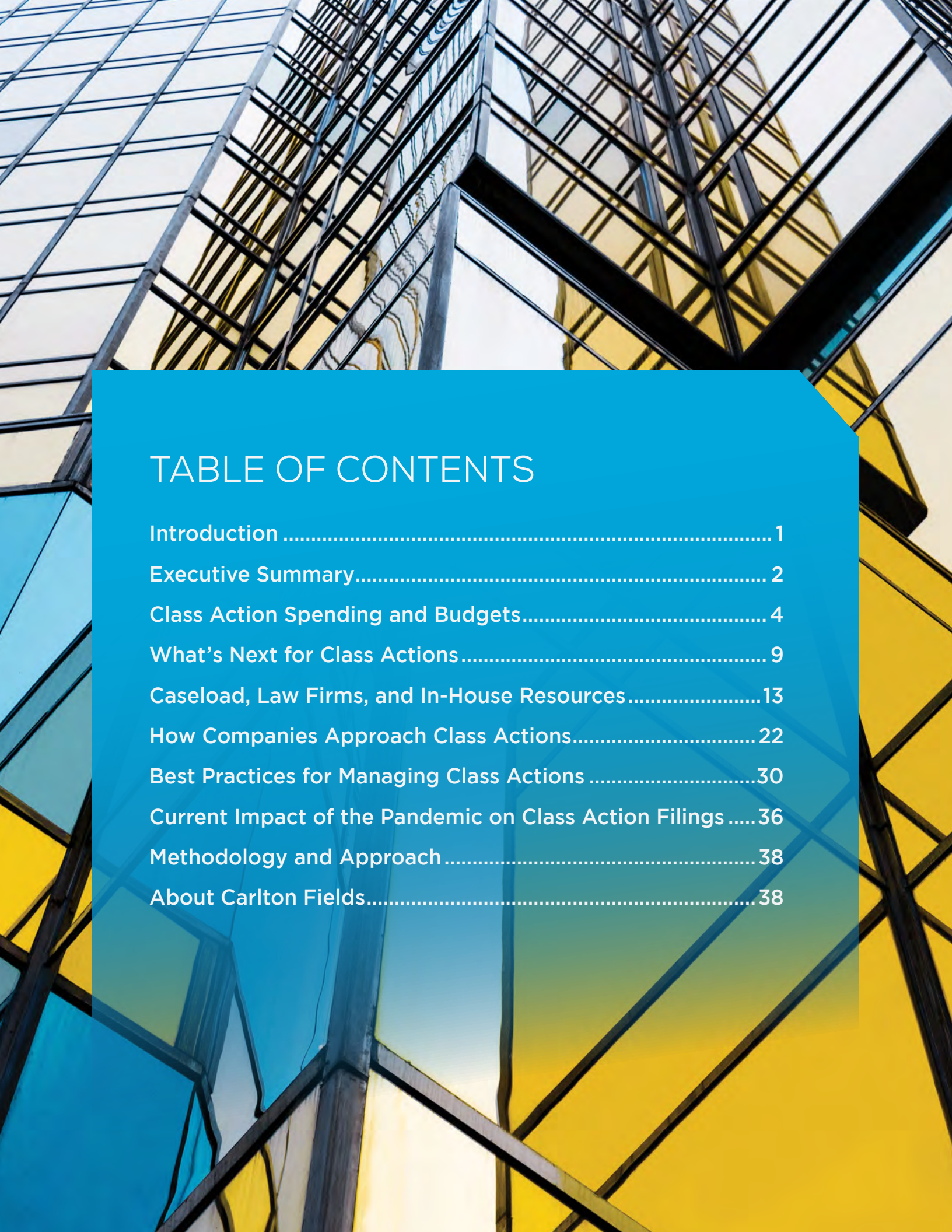


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INTRODUCTION

Carlton Fields is pleased to share its 12th annual Class Action Survey, which provides an overview of important issues and practices related to class action matters and management. This annual publication reports on historical trends captured since the inception of the survey and includes information related to emerging issues in class action litigation.

Class action spending has increased for eight consecutive years, and it is expected to be one of the fastest-growing areas of legal spending in 2023. Companies reported facing almost a full additional class action in 2022 over 2021, which reverses a two-year decline in average number of matters per company since 2019. While class action caseloads are expected to be even larger in 2023, companies continue to decrease the number of in-house attorneys dedicated to class actions.

The 2023 Carlton Fields Class Action Survey is based on interviews with general counsel or senior legal officers at more than 400 *Fortune* 1000 and other large companies across a variety of industries. They shared their thoughts about class action exposure and best practices for class action management. We thank you for taking the time to review our report. As always, we aspire to provide valuable information that will assist your company and its legal department in managing class litigation both effectively and efficiently.

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EXECUTIVE SUMMARY

Defense Spending on Class Actions Hits New Record — Eighth Straight Year of Growth

In 2022, companies spent a record $3.5 billion on class action defense. The increased spending has two major drivers: claims are getting larger, and more companies are facing class actions.

Labor and Employment Takes Largest Share of Budgets and Matters

Labor and employment litigation accounts for nearly 35% of class action spending and 34% of matters managed by in-house legal departments. Employment class actions also dominated the remaining pandemic class actions, at 50%.

Consumer Fraud Poses Biggest Risk in Today's Environment, Privacy Retreats

Companies expect more consumer fraud class claims, and for those claims to have a bottom-line impact, as the use of social media poses increased reputational, brand, and financial risks. The plaintiff's bar remains vigilant in challenging corporate statements regarding environmental, social, and governance (ESG) issues. While a quarter of companies predict data privacy as the next wave of class actions, only 10% saw those claims actualize as posing a significant risk. Perceived risk of data privacy actions has dropped because companies believe they can better predict outcomes.

An Overwhelming Concern of In-House Counsel Is the Growth of Baseless Claims

Six out of 10 in-house counsel reported that the growth in baseless putative class actions poses a substantial risk to their companies. While they identified effective defenses, top legal decision-makers also believe courts are becoming more lenient in letting baseless class actions move forward.

The Best Tool for Cost Control Is Using Trusted Counsel

Relying on trusted counsel is the most effective tool to reduce and control costs. Companies believe trusted counsel will make the right decisions without sacrificing the defense. Most companies reported using no more than five outside law firms for class action defense, and 30% reported using one firm in a supervisory role.



Trend Reversal: Class Actions Per Company Increased, and Expected to Increase Further

Companies reported facing almost a full additional class action in 2022 over 2021, which reverses a two-year decline since 2019. Class action caseloads are expected to grow even larger in 2023.

Doing More With Less — Number of In-House Attorneys Dedicated to Class Actions Decreases

While in-house attorneys are predicting more class actions, companies continue to decrease the number of in-house attorneys dedicated to class actions and devote less hours per attorney to these cases.

Class Action Settlements at the Lowest Level in Five Years

The number of settlements dropped significantly in almost all areas of litigation, including class actions, while settlements of putative class actions on an individual basis rose to nearly half of settlements.

Effective Class Action Defenses Include Early Motions for Summary Judgment

Absences of commonality and predominance, and lack of actual injury, topped the list this year as the most successful defenses to putative class actions. Perhaps surprisingly, 64% of in-house counsel also reported that motions for summary judgment before class certification were an effective defense. This is the first year the survey asked about such "early" motions for summary judgment, and the results show a widespread familiarity with this technique.

AFA Usage Shows Slow Increase

The use of alternative fee arrangements continues to increase, yet less than half of companies are using them to manage class actions. For the first time, the most successful AFA for these companies is fixed fee by phase or phased payments.

Class Action Defense Spending Took More of the Corporate Legal Budget in 2022

Companies increased the percentage of their legal budgets allocated to class actions to 14.4%, up from 13% two years ago. For the first time, spending on class actions increased to more than $3.5 billion. In 2023, class action spending is expected to be one of the fastest-growing areas of legal spending. See page 5 for spending history.

$3.64 Billion Spending on Defense of Class Actions by U.S. Based Companies
WITH MORE THAN $1 BILLION IN REVENUE

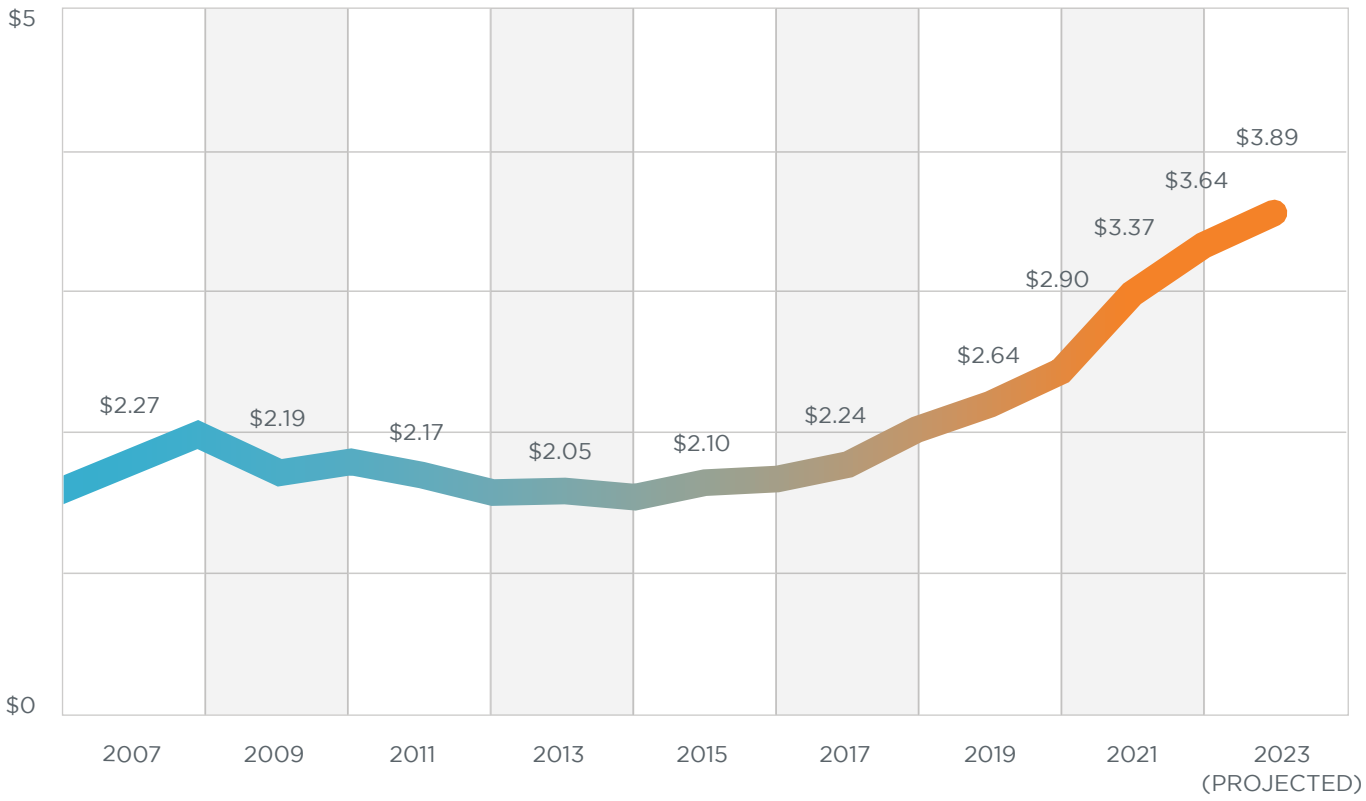


Spending on Class Actions Increases for the Eighth Straight Year

Corporate legal spending on defending class actions is expected to grow 6.8% in 2023, one of the highest growth rates in legal spending. Spending on class actions grew 8% in 2022, an increase second only to 2021. Companies report that increased spending on class actions has two major drivers: claims are getting larger, and more companies are facing class actions.

US Corporate Legal Spending on Class Actions

$ BILLIONS

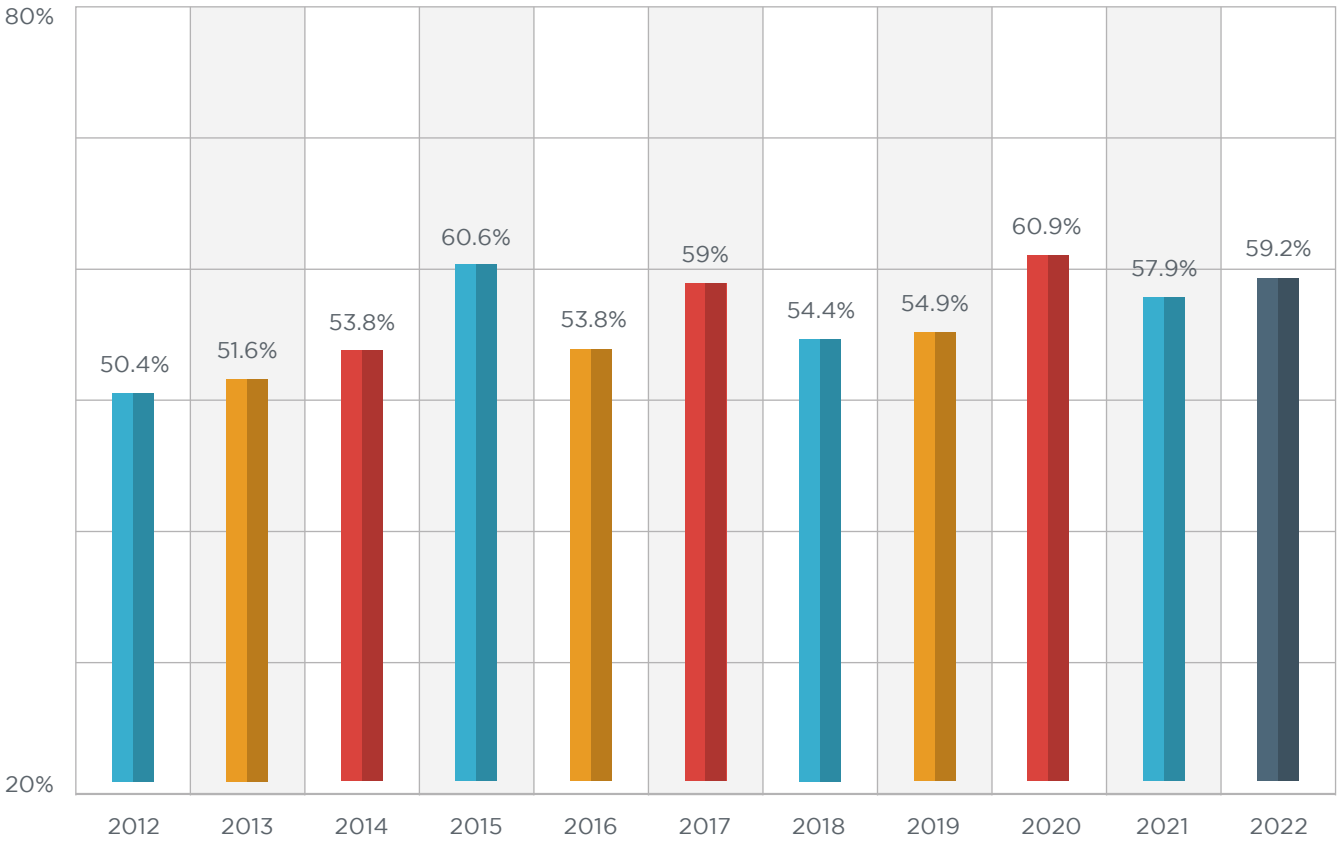


Companies Facing Class Actions Increased in 2022

The number of companies facing class actions increased from last year, to the third highest number on record.

Companies With Class Actions

PERCENT OF COMPANIES

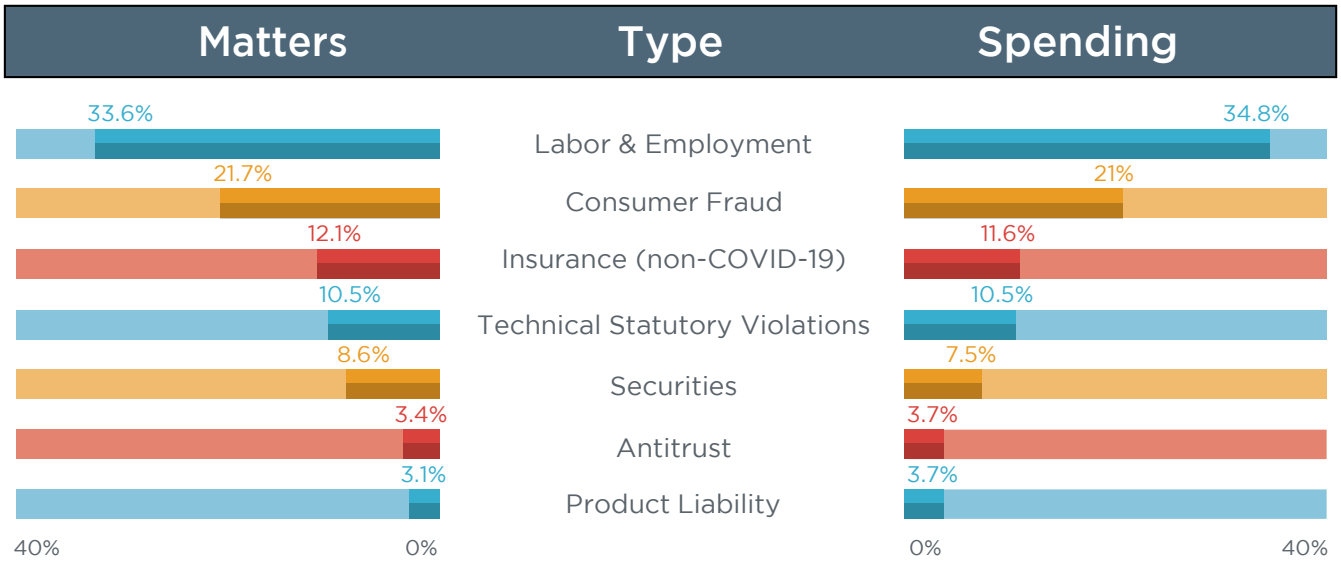


Labor and Employment Takes Largest Share of Budget and Matters, Consumer Fraud Second

Labor and employment leads both in number of class actions (33.6%) and in share of overall class action budgets (34.8%), by a wide margin. This is well up from last year's reporting, when labor and employment was 23.5% of the average class action budget. Labor and employment spending now exceeds the percentage of matters, which was typically seen for higher-risk subjects such as antitrust and securities. Consumer fraud is significant as the second largest area of class action spending. Combined, labor and employment and consumer fraud account for 55.8% of class action spending.

Class Actions and Annual Spending Breakdown by Type

PERCENT OF MATTERS AND SPENDING



Note: Chart does not add up to 100%. Excludes other types of class actions each accounting for less than 3% of matters and spending, including intellectual property, data privacy/cybersecurity, COVID-19, environmental, negligence and nuisance, property damage, and agent commission.

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Labor & Employment Class Actions Show Substantial Growth

Labor and employment class actions rose substantially again this year, as a share of overall class action matters. Companies perceive both regulatory agencies and employees (through their counsel) as being more aggressive than in years past. The announcement of a regulatory investigation or enforcement action, in such an environment, can lead to a follow-on putative class action.

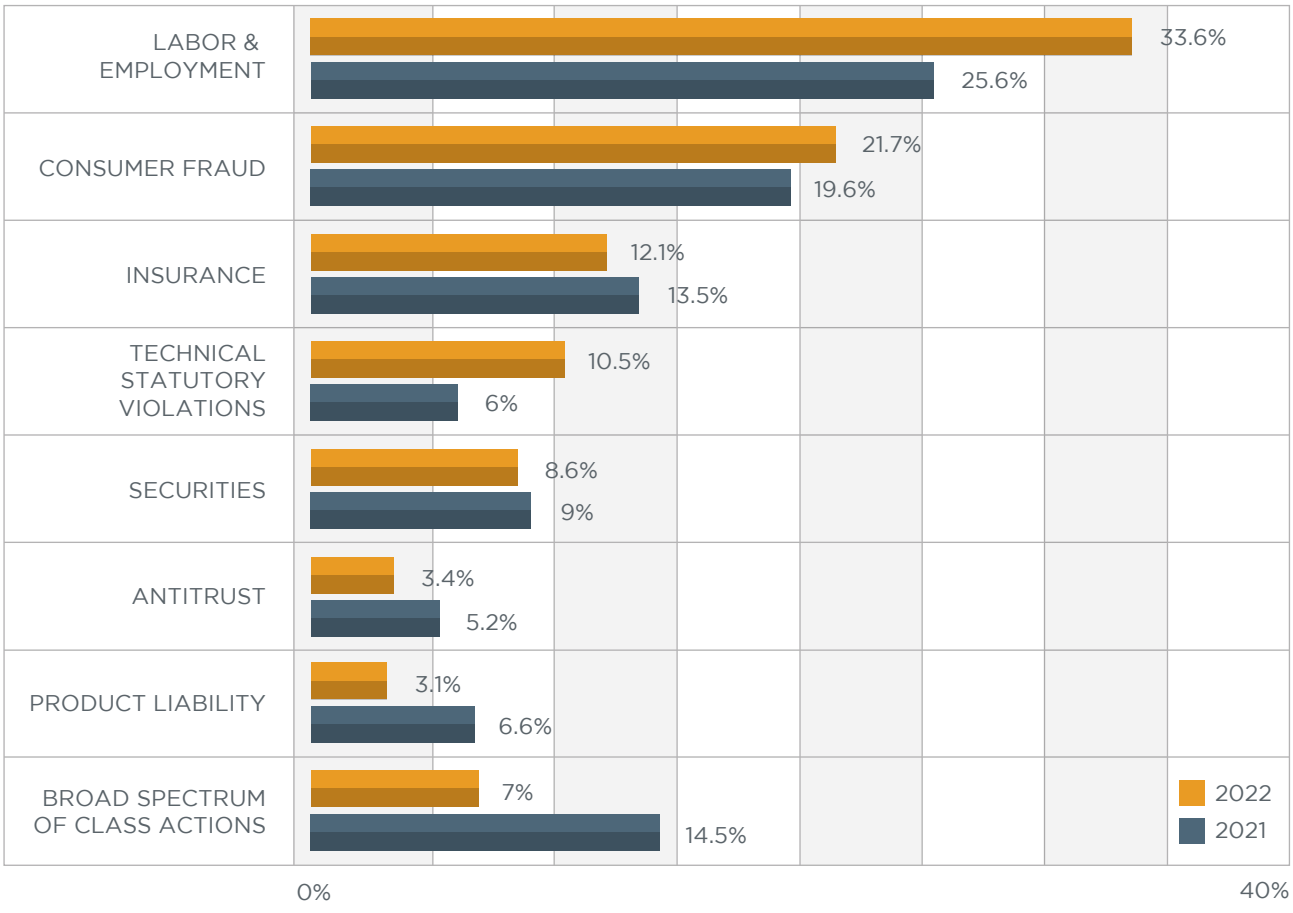
Consumer fraud class actions also increased on companies' dockets due to claims resulting from the use of social media, product labeling, and debt collection.

COVID-19 class action matters no longer appear at any measurable level, after dipping below 10% last year. Most of the remaining COVID-19 class actions concern labor and employment matters.

Note: Insurance claims do not include COVID-19 and are mostly tied to financial products and offerings, or claims relating to disasters.

Class Actions Breakdown by Type

PERCENT OF MATTERS



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Data Privacy/Cybersecurity, Financial Products Perceived to Drive Next Wave of Class Actions

Last year, companies expected labor and employment class actions to be the biggest contributor to the next wave of class actions, and this year's survey results prove that assessment correct as labor and employment dominates as a share of companies' class action dockets. For labor and employment, the wave is here.

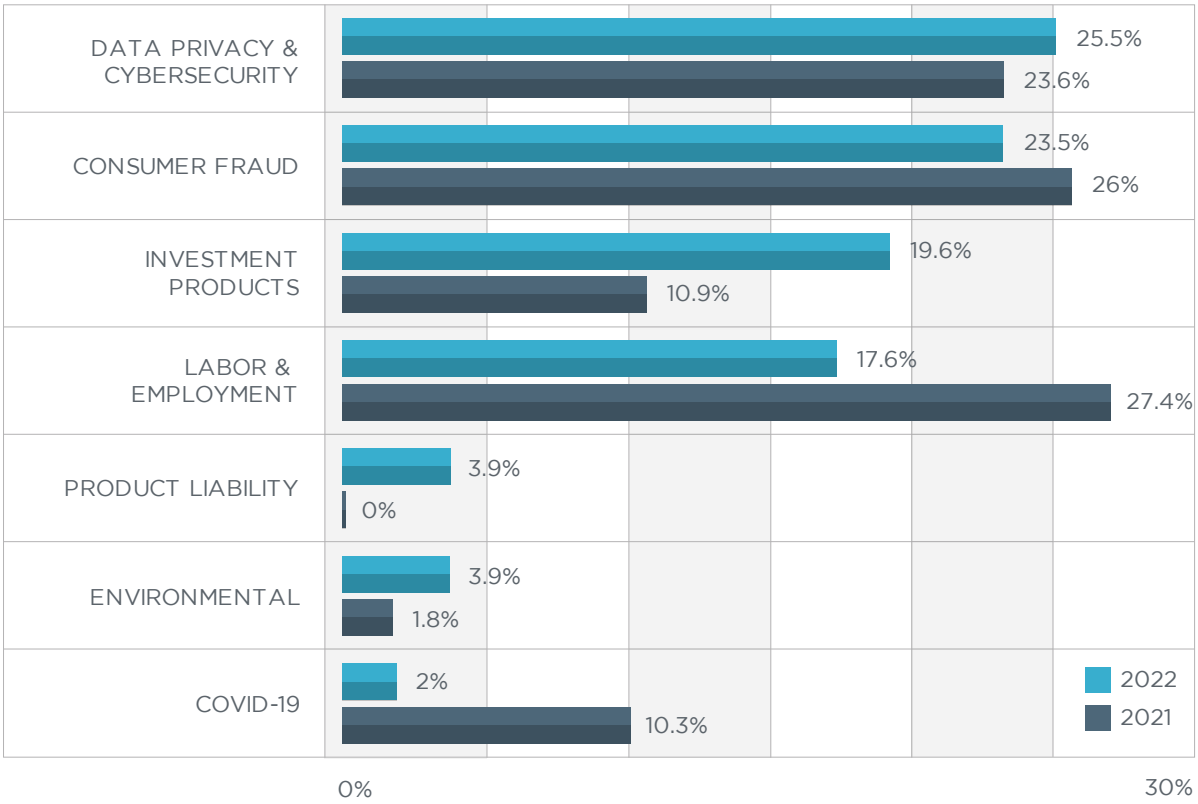
This year, data privacy and consumer fraud top concerns of in-house counsel for growth in filings. Concerns for growth in data privacy filings followed additional states adopting privacy rules behind California, and the amendments to its 2020 legislation that went into effect on January 1, 2023.

Consumer fraud class actions are again top-of-mind for companies, and in-house attorneys cite concerns over claims from social media postings and product labeling.

Anticipation of class actions regarding investment products has doubled from last year, to become the third largest area predicted for the next wave of class actions. This is likely impacted by an aggressive SEC enforcement staff and a substantial drop in the value of many cryptocurrencies at the time of the survey. This is litigation to watch, as it has associated with it substantial defense costs and risk of damages.

Next Wave of Class Actions

PERCENT OF COMPANIES



Note: Chart does not add up to 100%. Excludes responses under 2%.

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Consumer Fraud, Employment Perceived to Pose Biggest Risk in Today's Environment

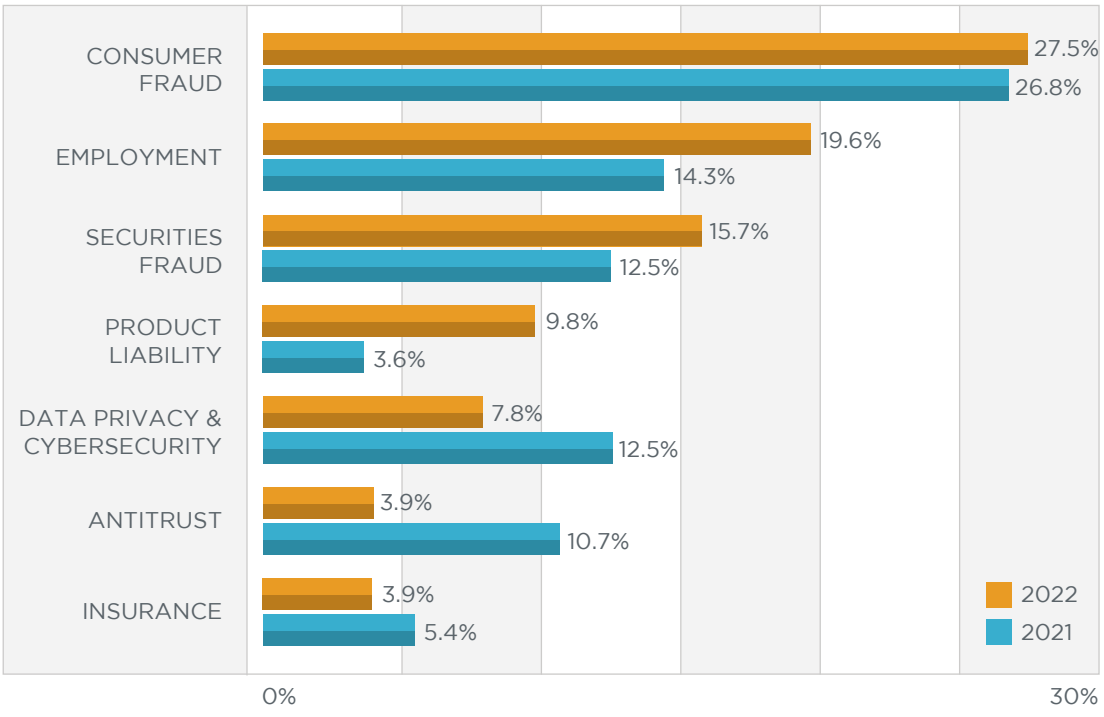
Companies continue to see consumer fraud class actions as posing the largest threat by a wide margin, pointing to claims based on both the use of social media, and ESG disclosures and practices. Employment claims pose more risk than previously reported because perceived employee activism created unrest, lost productivity, and financial risk alongside the costs associated with an increased number of baseless claims.

Securities fraud class actions against public companies saw a jump this year, as a result of changes in public disclosures about future guidance and the U.S. stock market's roller coaster approach to end 2022. While product liability is still a small share of perceived risk, it more than doubled from the share it held last year.

Finally, while data privacy class actions are anticipated to increase in number in 2023, concern for the risk from such suits has dropped. Larger companies are educated on the risks, and report that they can better predict outcomes.

Class Actions Posing the Biggest Risk

PERCENT OF COMPANIES



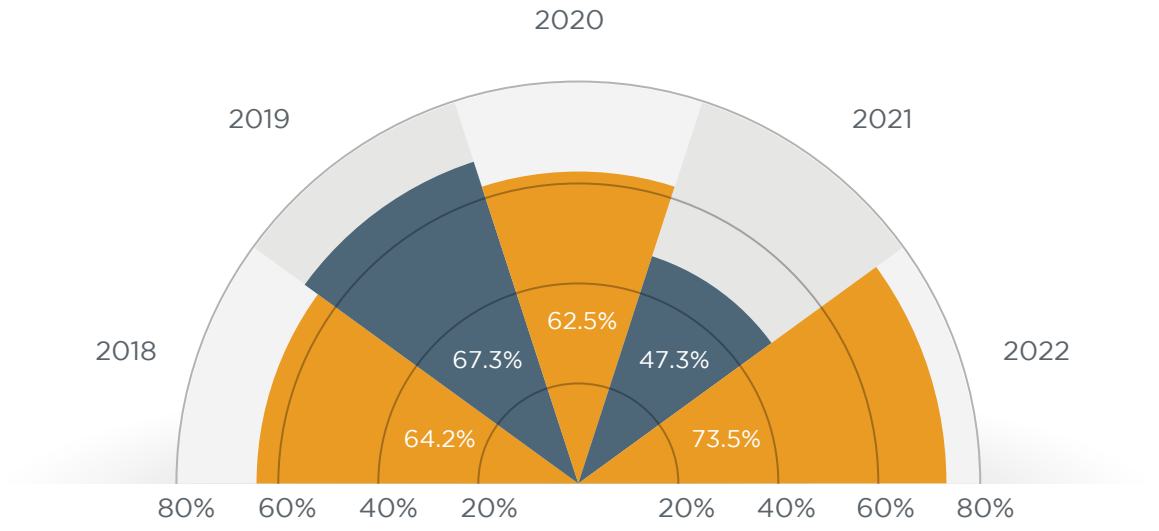
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Companies Facing Labor & Employment Class Actions Soars

Nearly 75% of companies report having faced a labor and employment class action in the last five years. As discussed on page 7, labor and employment now accounts for one-third of the cases in the class action portfolio of in-house legal departments. There are a number of drivers that might explain this, including a more employee-friendly regulatory landscape (putative class actions often follow a consent order or other enforcement action) and plaintiffs' firms bringing putative class actions for alleged violations they used to bring as individual actions.

Faced Labor & Employment Class Actions in the Last Five Years

PERCENT OF COMPANIES



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In Their Own Words: Corporate Counsel on the Type of Class Actions Posing the Biggest Risk

"Misclassification and wage & hour are always problematic for us because we are 100% dependent on our contracted labor force."

– Associate General Counsel, Leading Transportation Company

"Disgruntled employees that can go on social media and make false claims against the company."

– Director, Senior Counsel, Litigation, Global Retail Company

Growth in Baseless Claims Is Most Common Concern; Hybrid Work, Social Media, and ESG Bring Additional Class Action Risk

Six out of 10 in-house attorneys agree that baseless claims bring a substantial risk for class actions, by far the most common risk in this survey. They describe these class actions as those that have no merit, but where the companies are forced to defend them nonetheless. Top legal decision-makers believe courts are becoming more lenient in allowing class actions to move forward, which creates a significant cost that is disproportionate to the merits of the claim.

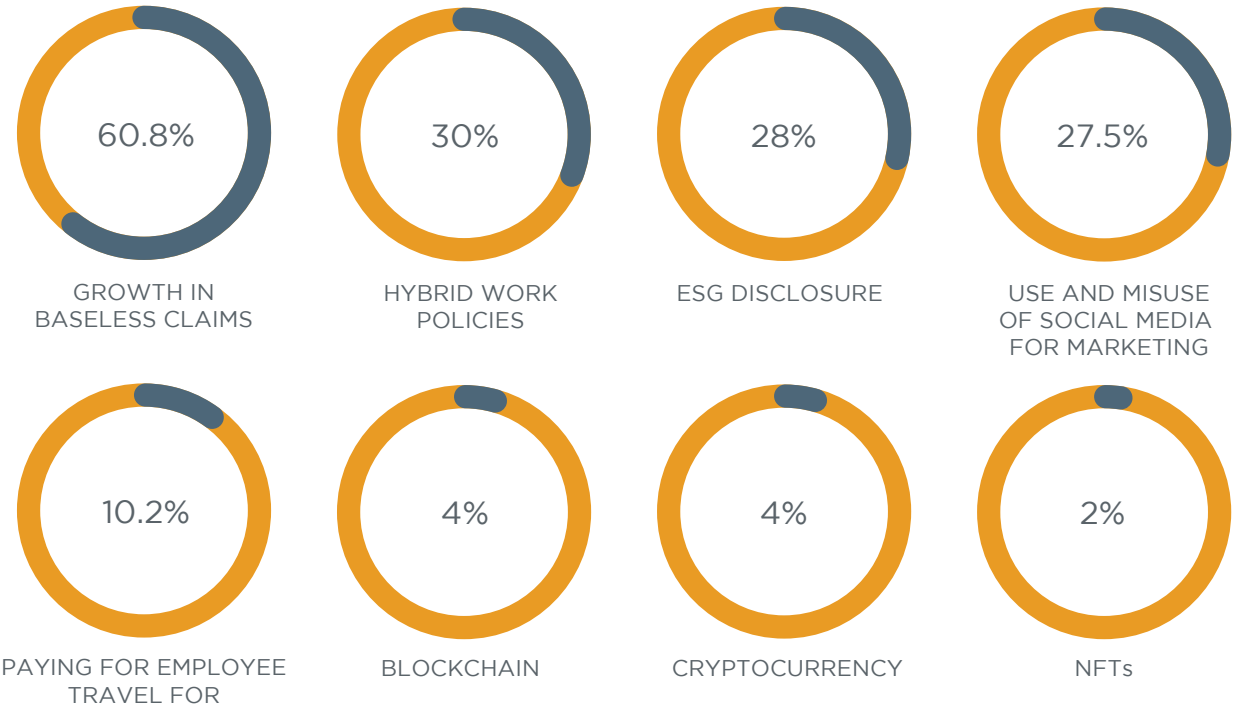
Almost one in three companies see hybrid work policies as inviting class actions.

ESG poses risks as companies point to vague disclosure rules. They also believe these areas are subject to interpretation and invite claims challenging company policies or statements.

Companies point to the use and misuse of social media as the fourth major area of risk of class actions. Survey respondents note that posts from their companies' official social media accounts can lead to claims of false disclosures, while posts from employees' personal accounts can be used as evidence of discrimination, or as other proof of intent or harm.

Class Action Subjects Posing the Biggest Risk

PERCENT OF COMPANIES



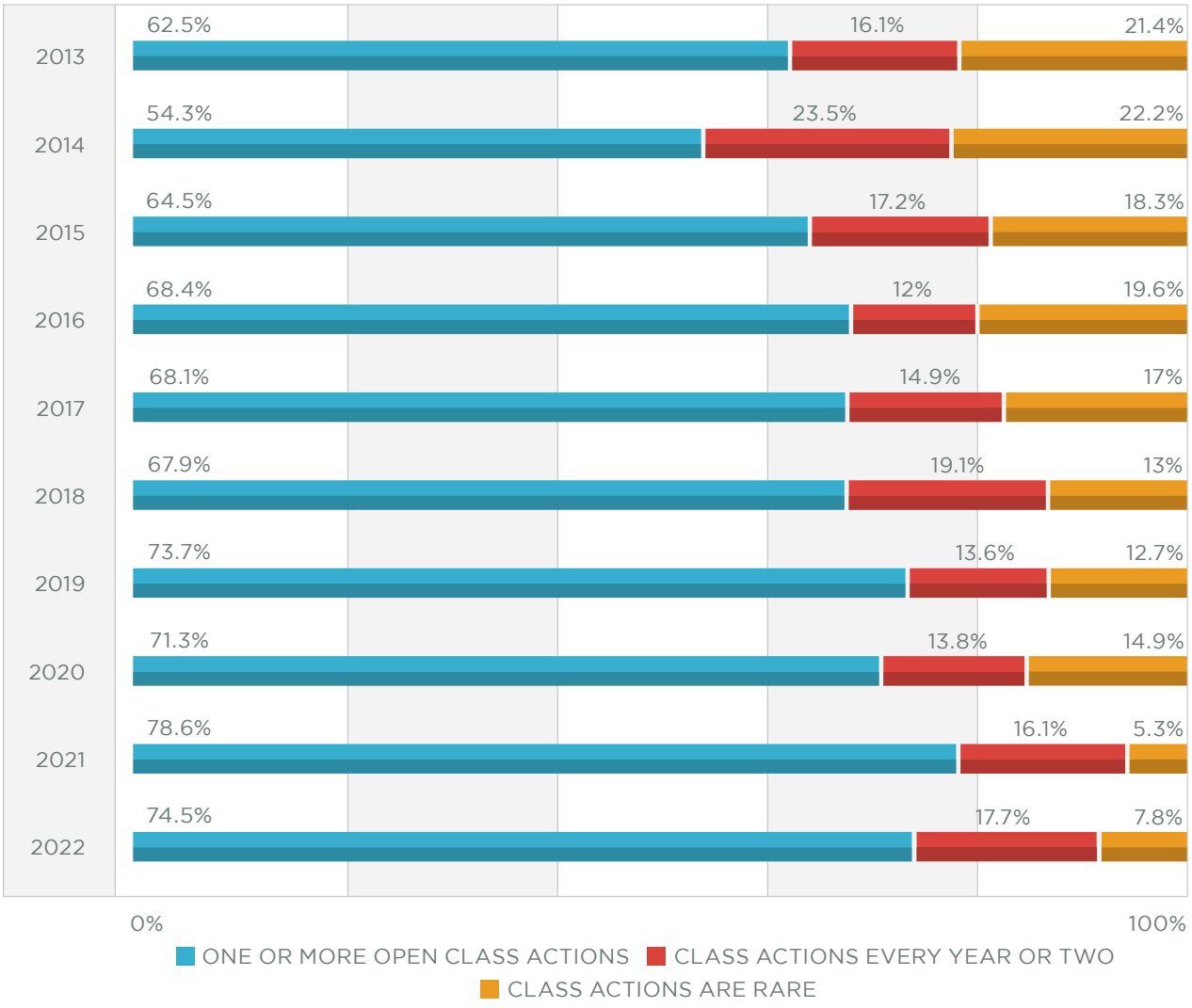
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Almost All Companies Facing Class Actions Have Faced Them Before

Most companies with class actions have faced them before. Ninety-two percent of companies with class actions face these claims on a regular basis, less than a 3% difference from last year. Among companies with class actions, they are seeing more class actions over time (see next page for more detail).

Class Action Experience

PERCENT OF COMPANIES FACING CLASS ACTIONS



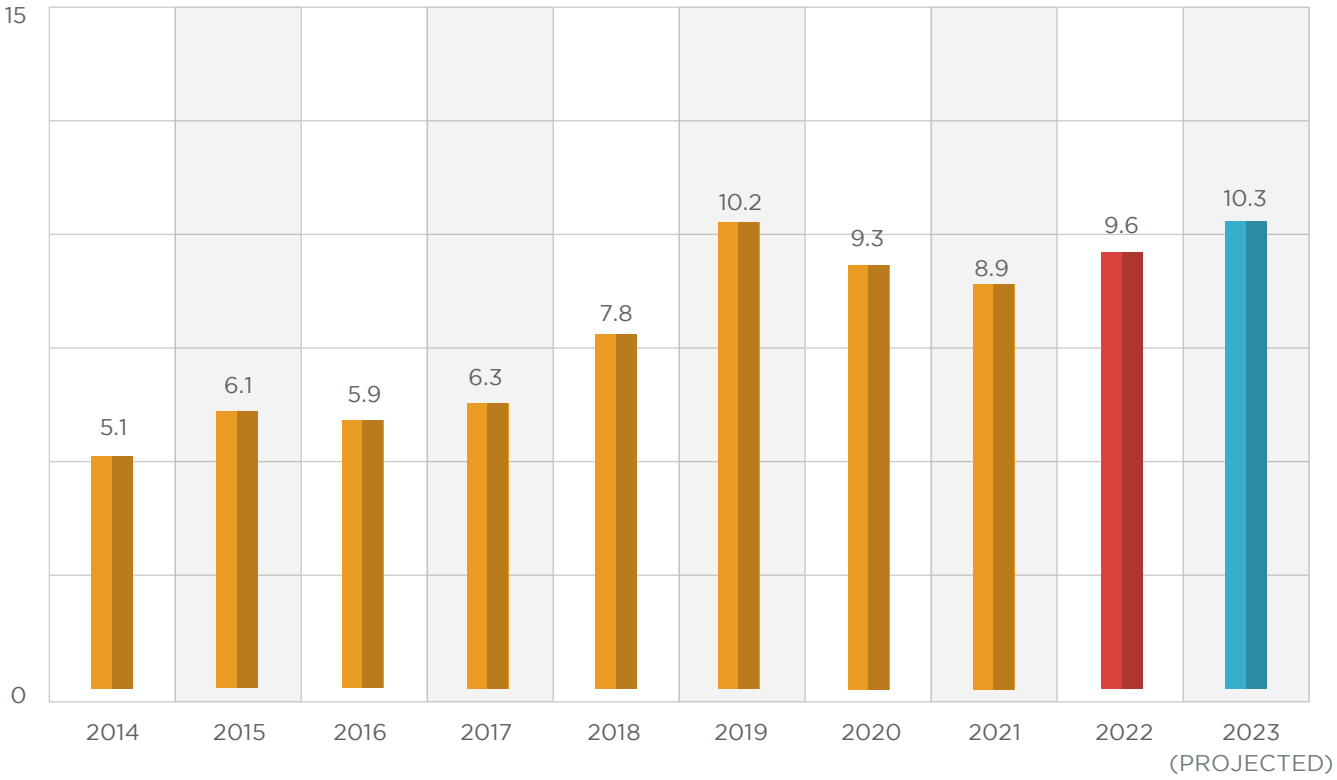
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Trend Reversal: Class Actions Per Company Increased, and Expected to Increase Further

Companies reported almost a full additional class action in 2022 over 2021, which reverses a two-year decline since 2019. Companies with class actions expect to face an even larger caseload in 2023.

Current Class Actions

AVERAGE NUMBER OF MATTERS PER COMPANY



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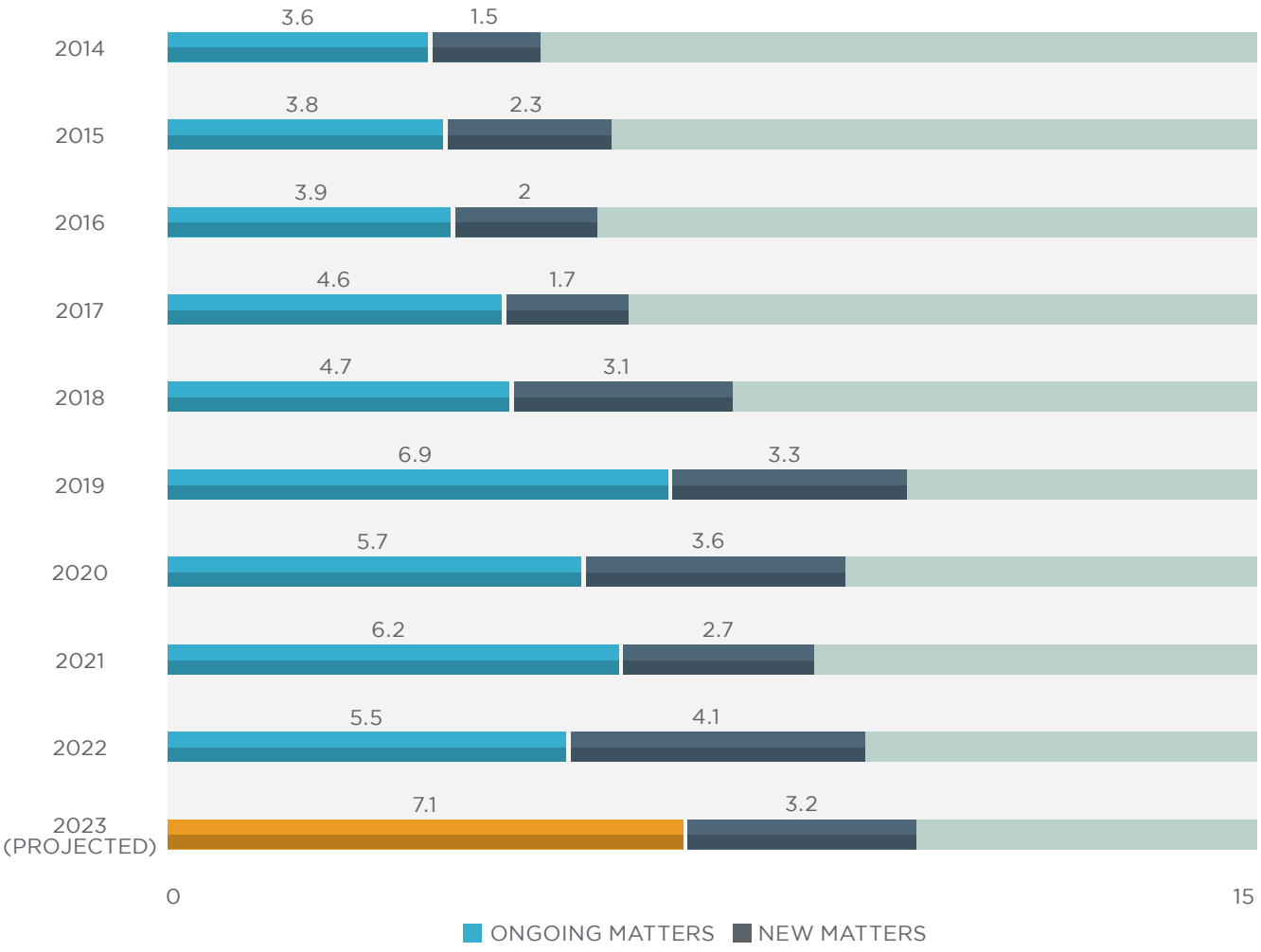
2023 to Bring a New Peak in Class Actions Per Company

Companies predict that ongoing matters will account for the bulk of the class action caseload in 2023, which may result from 2022's low settlement rates (see page 22).

The increased caseload comes at a time when the number of in-house attorneys managing class actions has dropped (see page 19).

Current Class Actions

AVERAGE NUMBER OF MATTERS PER COMPANY



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Companies Facing High-Risk Matters Jump; Bet-the-Company Actions Again Negligible

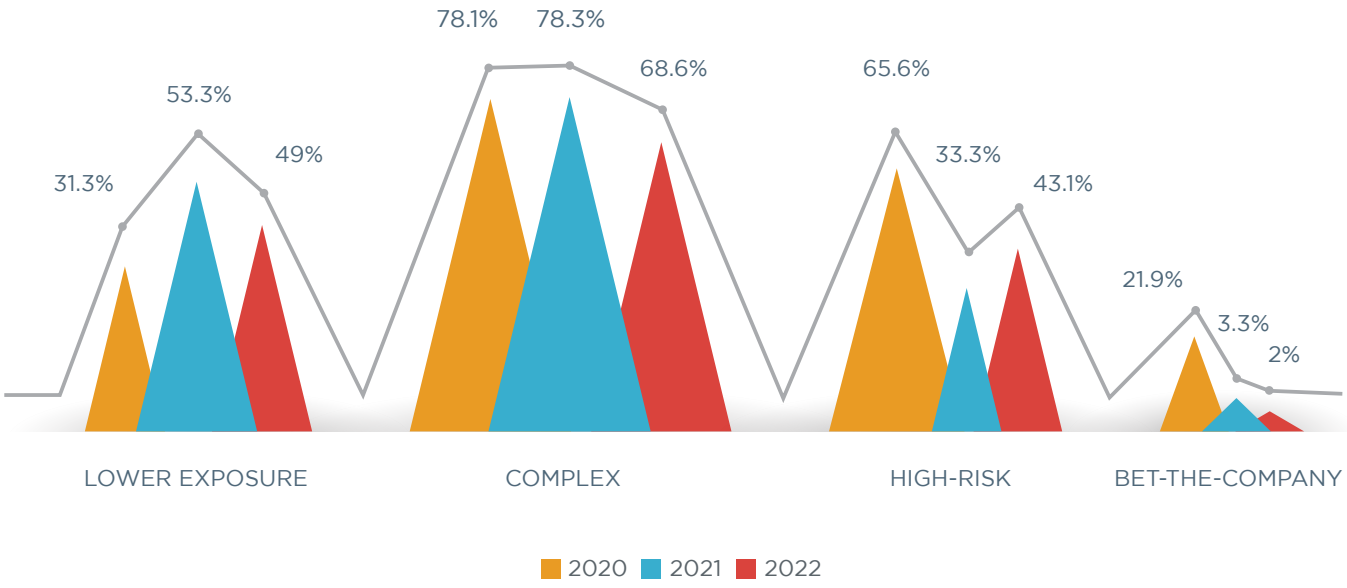
More companies reported facing high-risk matters than last year, after a big decline in 2021. These companies see the increase in putative class actions based on employee claims, social media disclosures, and ESG practices as especially risky.

Bet-the-company matters are becoming rare in class actions, mirroring the trend in almost all aspects of litigation. Companies are reporting an increase in high-risk litigation, and much lower instances of bet-the-company litigation.

Lower exposure class actions — those that are contained and manageable with high confidence — saw a moderate decline, after a large jump last year.

Class Actions Breakdown by Risk Level

PERCENT OF COMPANIES MANAGING CLASS ACTIONS



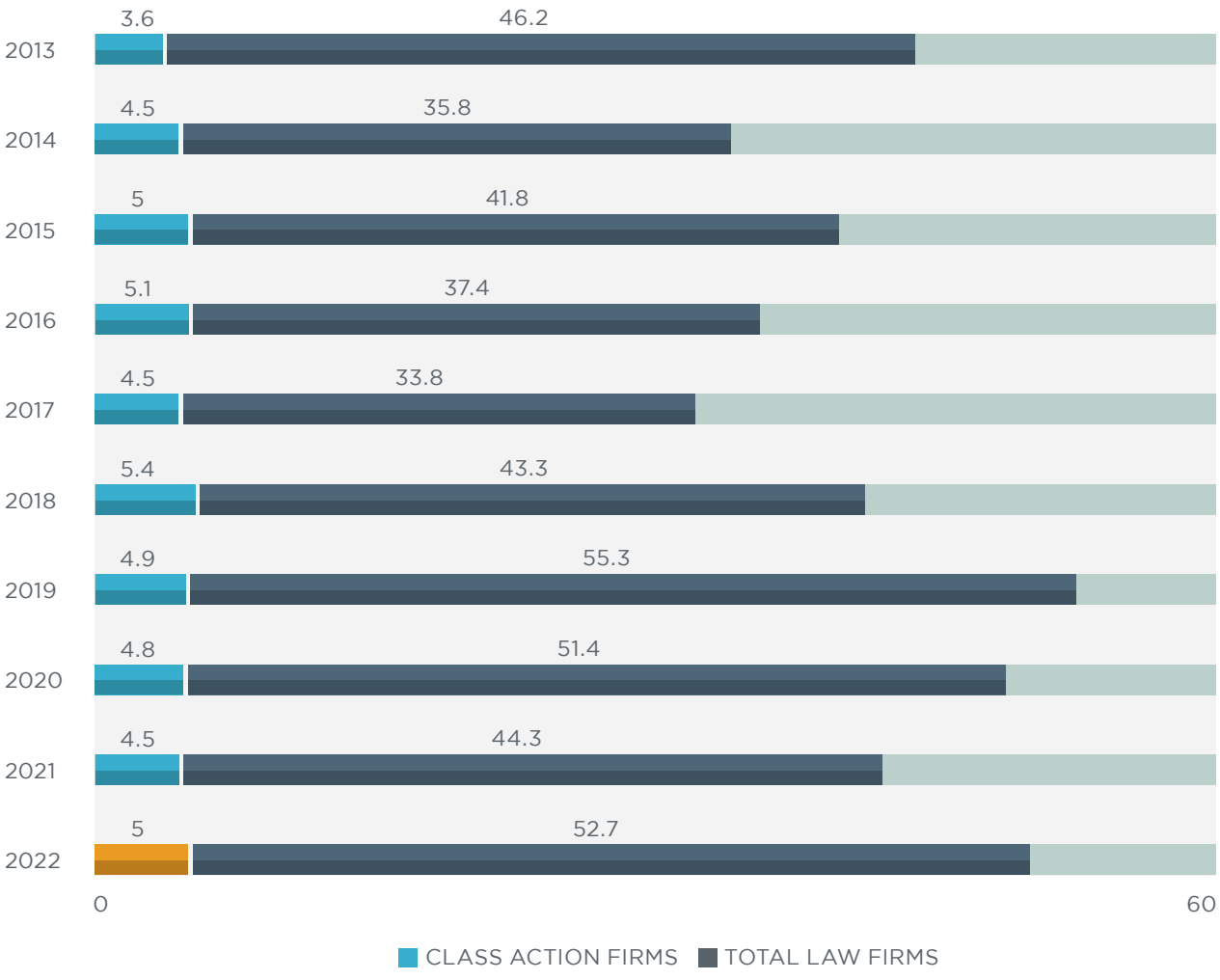
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Class Action Law Firm Panel Size Holds Steady, Companies Hope to Build on Knowledge and Trust

Companies are holding their law firm panels for class actions steady between four and five firms, which appears to be the "sweet spot" for companies that face class actions. The increase of an average of half of a firm year-over-year is negligible when compared to the more than eight additional firms that the same companies added for all matters. To be discussed later, in-house counsel see relying on trusted outside counsel as the best tool to control costs of class actions.

Law Firms Used Overall and for Class Actions

NUMBER OF FIRMS



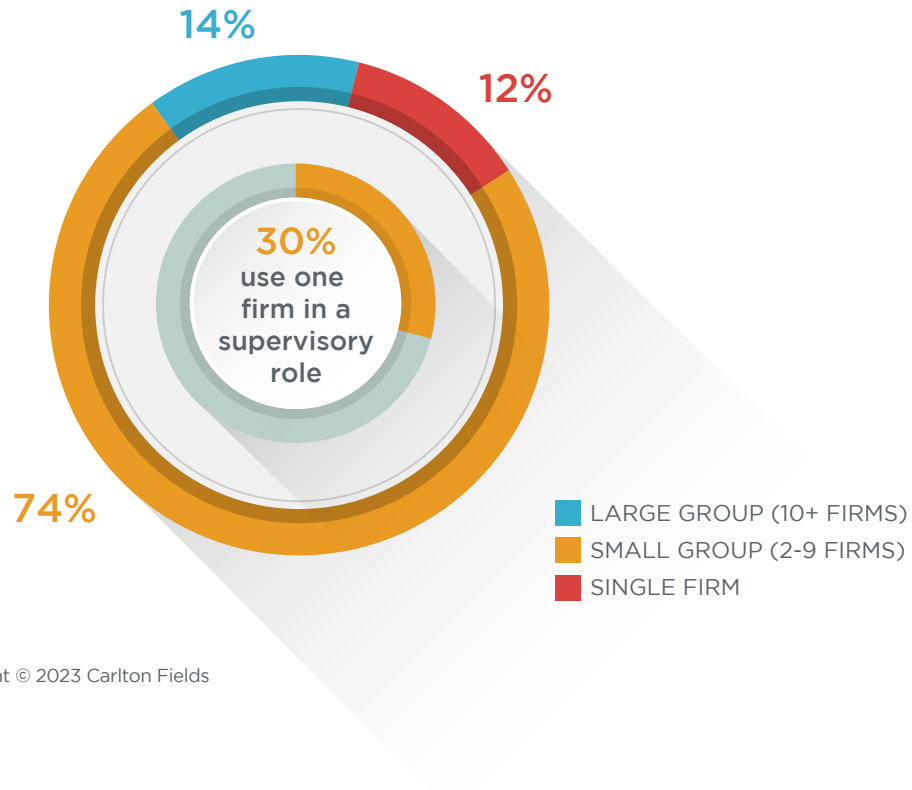
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Companies Rely on a Small Group of Law Firms for Class Actions Defense

Consistent with the average panel size reported on the prior page, most companies are relying on small groups of law firms to manage class actions. The benefits include more uniformity in the approach to class actions, more diversity of thought than a single firm, reduced management time, more understanding of client goals, and improved cost control. Only a small segment of businesses use a large group of law firms, even as the caseload grows. Thirty percent of companies use a single law firm in a supervisory role for class actions, down from 37% last year.

Role of Firms in Class Action Work

PERCENT OF COMPANIES



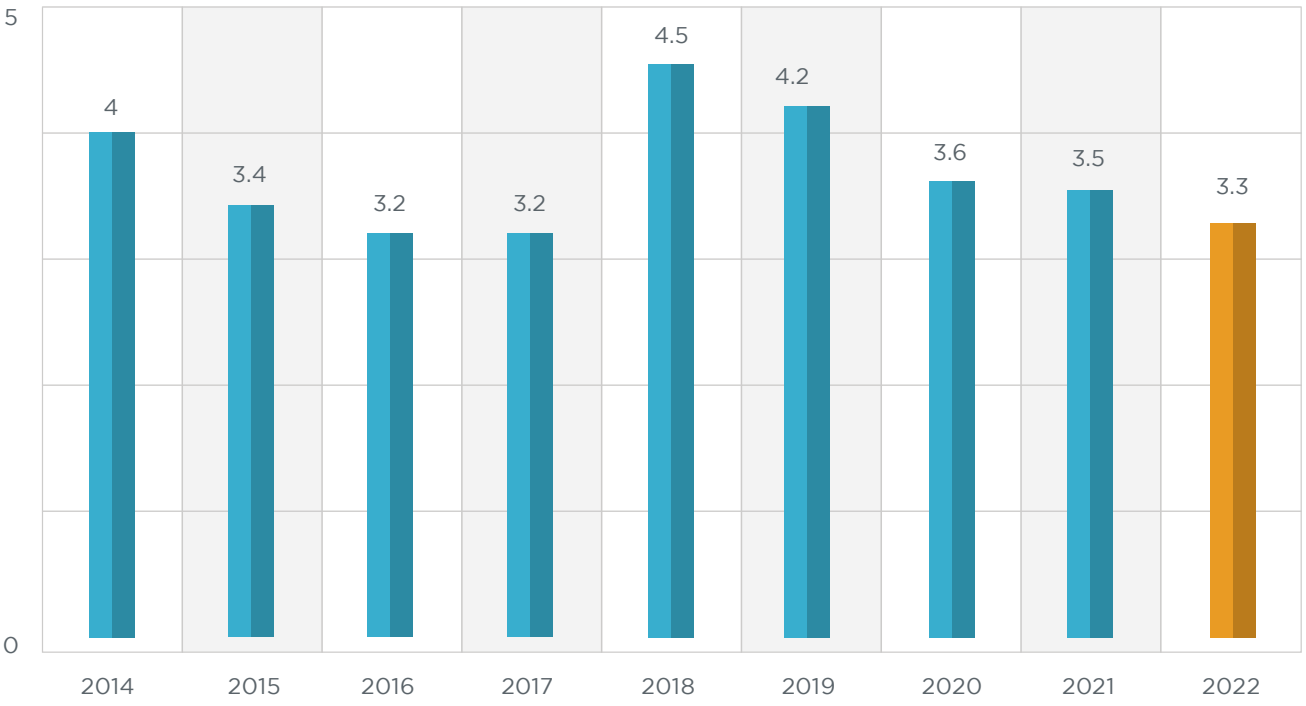
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In-House Attorneys Dedicated to Class Actions Decreases

Companies continue to decrease the number of in-house attorneys dedicated to class actions. While this number declines, in-house attorneys are predicting record numbers of class actions in their caseload (see page 14).

In-House Attorneys Dedicated to Class Actions

AVERAGE NUMBER OF LAWYERS



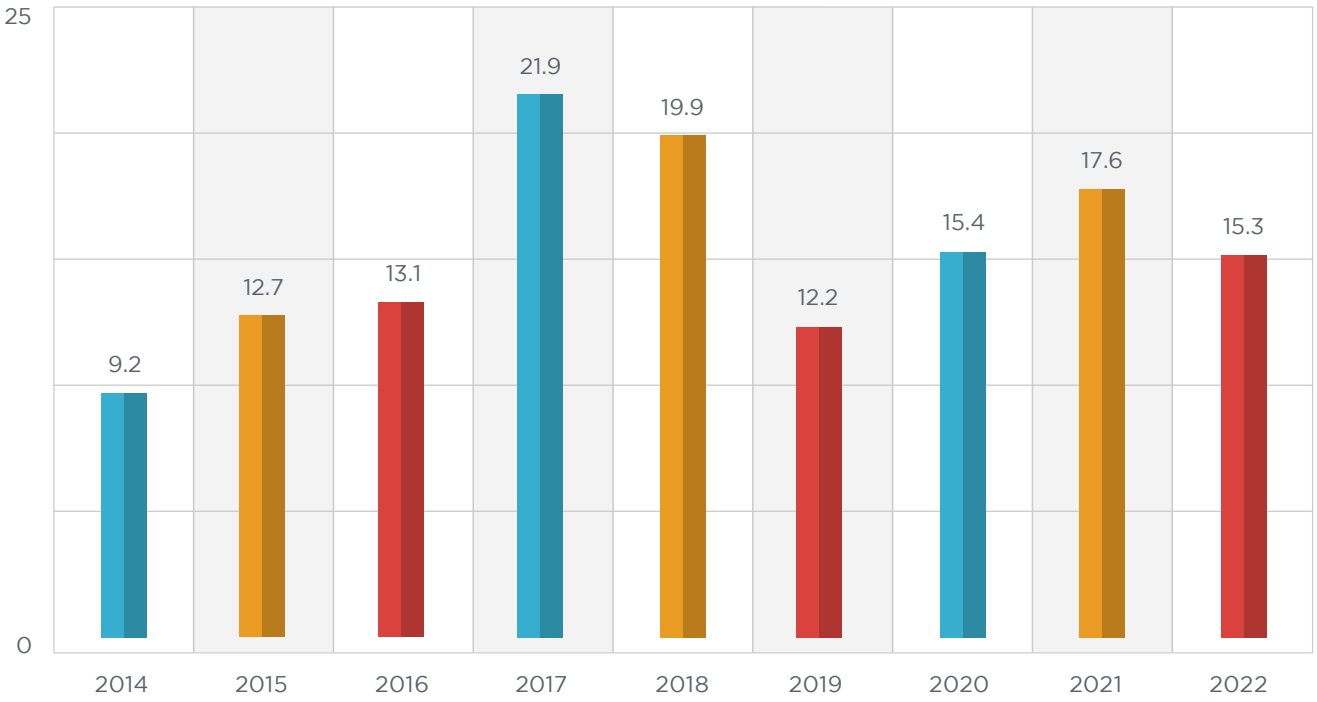
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In-House Attorneys Dedicating Less Time to Class Actions

In addition to the decline of in-house attorneys dedicated to class actions, in-house attorneys who work on class actions are spending 13% less of their time on class actions compared to 2021. Companies reported this decline is a result of in-house turnover, attrition, and a surging caseload of matters outside of class actions.

Aggregate In-House Attorney Time Spent on Class Actions

HOURS PER WEEK



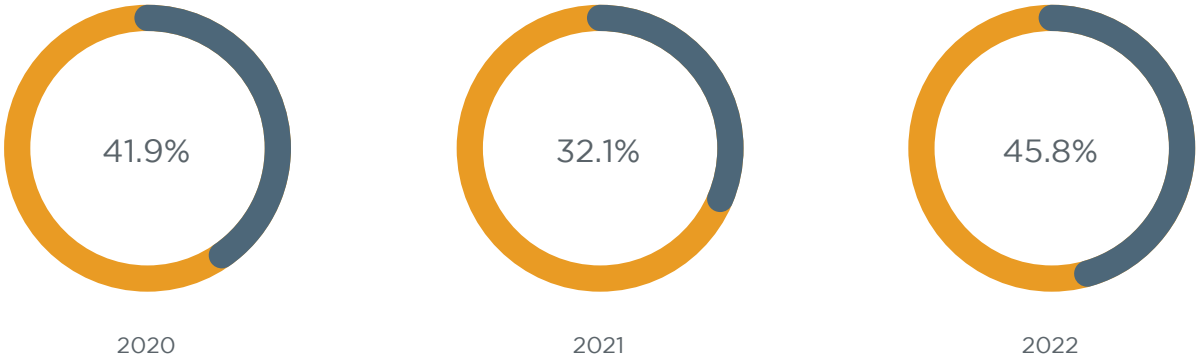
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More Companies Benefit From Insurance Coverage, Despite Drop in Coverage

The number of companies with a portion of their class action defense costs covered by insurance increased significantly from 32.1% to 45.8% in 2022. Of those covered class actions, the percentage of costs paid by insurance decreased by almost 12%. Companies reported that they had excess liability coverage or large coinsurance, and are paying more out of pocket as a result.

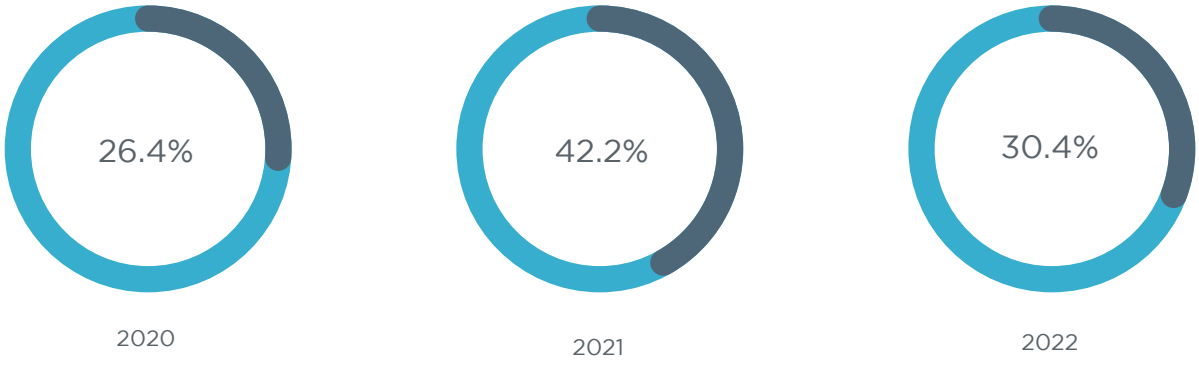
Companies With Defense Costs Covered by Insurance

PERCENT OF COMPANIES



Defense Costs Covered by Insurance

PERCENT OF CLASS ACTION DEFENSE COSTS



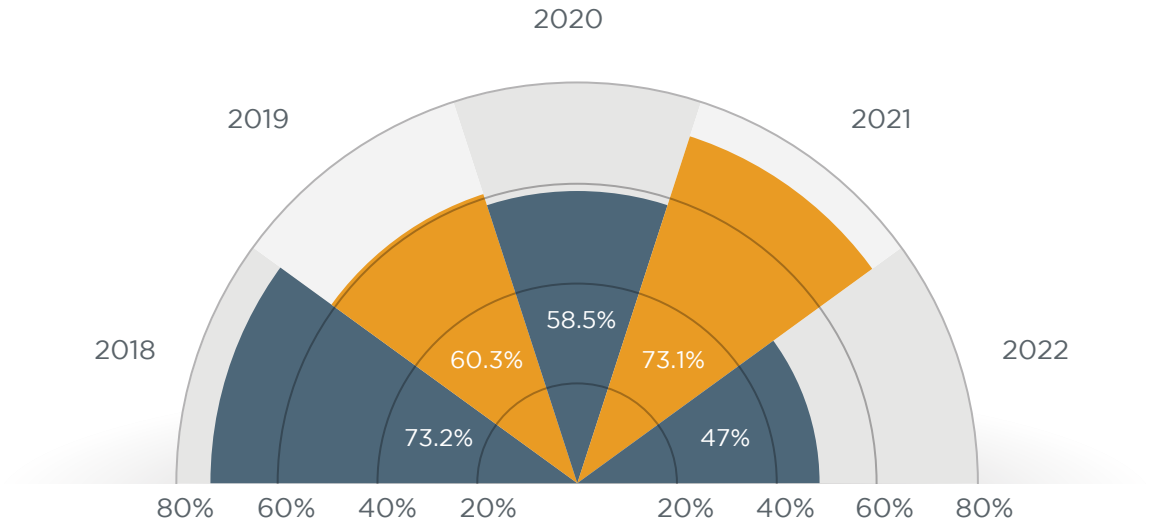
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Class Action Settlements Are at the Lowest Level in Five Years

The number of class action settlements dropped significantly, as it did in almost all areas of litigation. Class action settlements are the lowest on record. While 2021 saw a jump due to the resolution of older matters that had sat in 2020 during the early pandemic, the percentage of settlements in 2022 was the lowest in five years by a wide margin.

Class Actions Settled

AVERAGE PERCENT OF CLASS ACTIONS



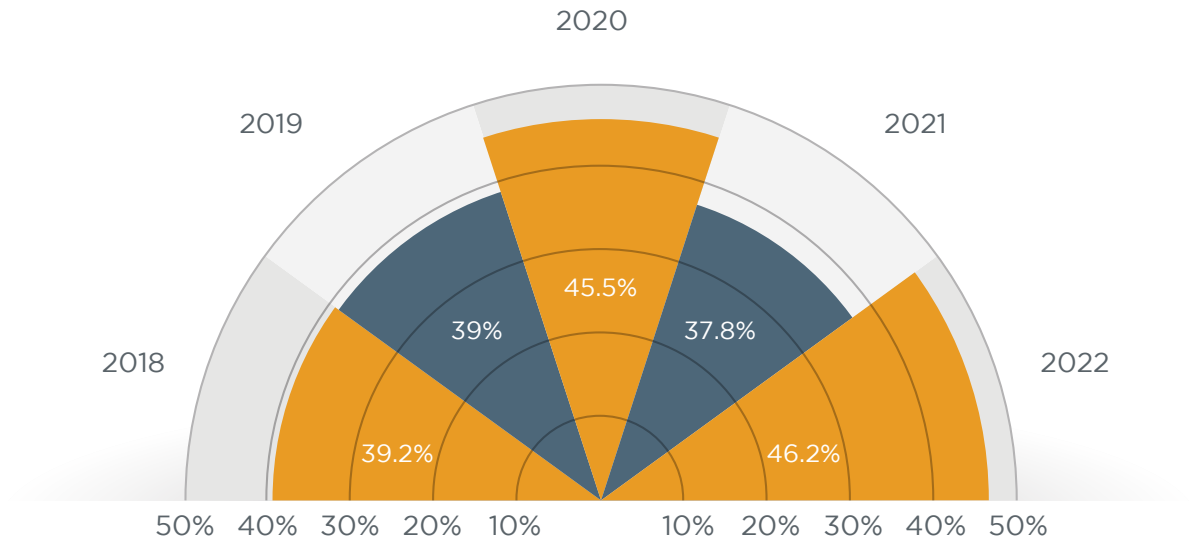
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Percentage of Individual Settlements Increased From 2021

On average, 46.2% of class action settlements were on an individual basis in 2022, up from 37.8% last year, and in-line with prior years. This may have resulted from the higher number of labor and employment class actions that companies faced in 2022, as those matters can sometimes be settled on an individual basis, depending on the allegations.

Individual Settlements

PERCENT OF SETTLED CASES



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Companies Using Narrower Range of Terms in Settlements

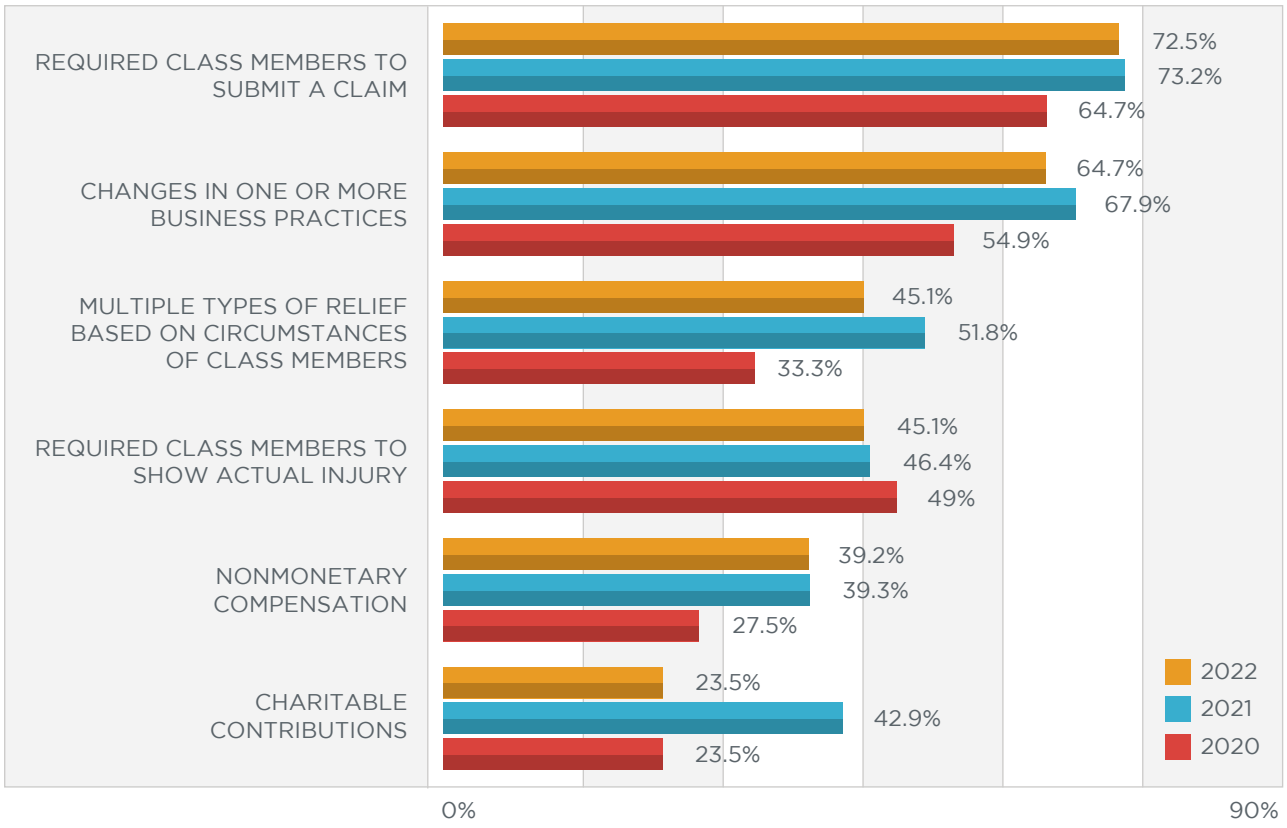
Almost three quarters of companies with class action settlements used a claims-made model in 2022, which points to the continued effectiveness of that form of settlement. Similarly, almost half of respondent companies settled a matter in a manner that required a class member to show actual injury. Nonmonetary conditions of settlement also remained popular, with 65% of companies involved in class actions agreeing to a change in business practices.

Using charitable contributions as part of a class action settlement plummeted in 2022, from 43% to 23.5%.

One explanation for the decline across these available conditions may be the lower number of settlements reported this year — fewer settlements mean fewer available conditions.

Involved in a Settlement With the Following Conditions

PERCENT OF COMPANIES



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Lack of Actual Injury Jumps as Class Action Defense

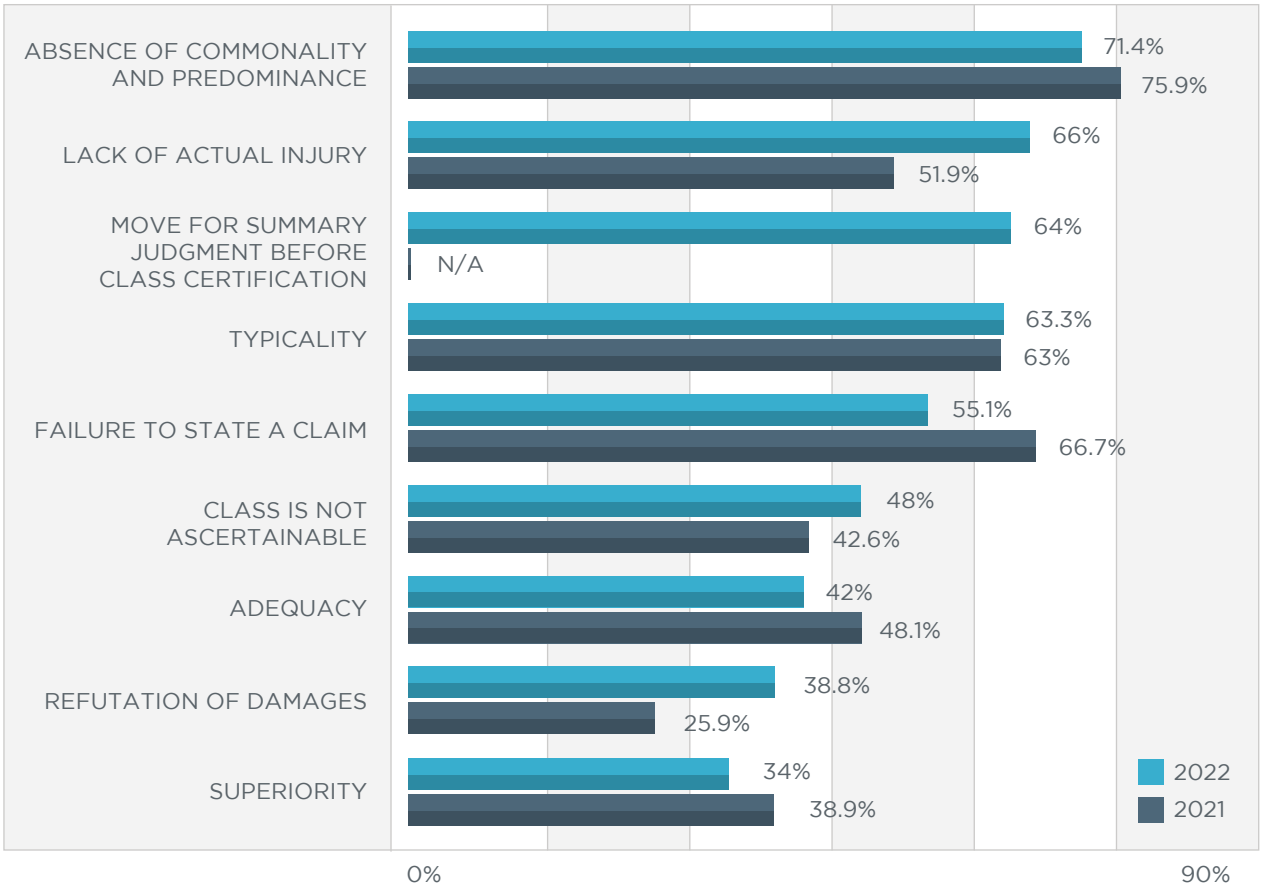
The two defense strategies reported as most effective are absence of commonality and predominance, and lack of actual injury. These defenses are typically raised at the class certification stage of a proceeding, often after an initial round of dismissal briefing and some discovery.

This was the first year the survey asked about motions for summary judgment before class certification, and the results (64% found it effective) show widespread usage — and success — for this technique in the right case. The number of in-house attorneys who found effective a motion for failure to state a claim, usually the first legal test of the allegations in a putative class action, decreased almost 10% last year, to 55%.

Companies' view of the success of taking steps to refute damages increased more than 10%, which suggests the continued vitality of that defense against headwinds from recent federal court decisions.

Successful Class Action Defenses

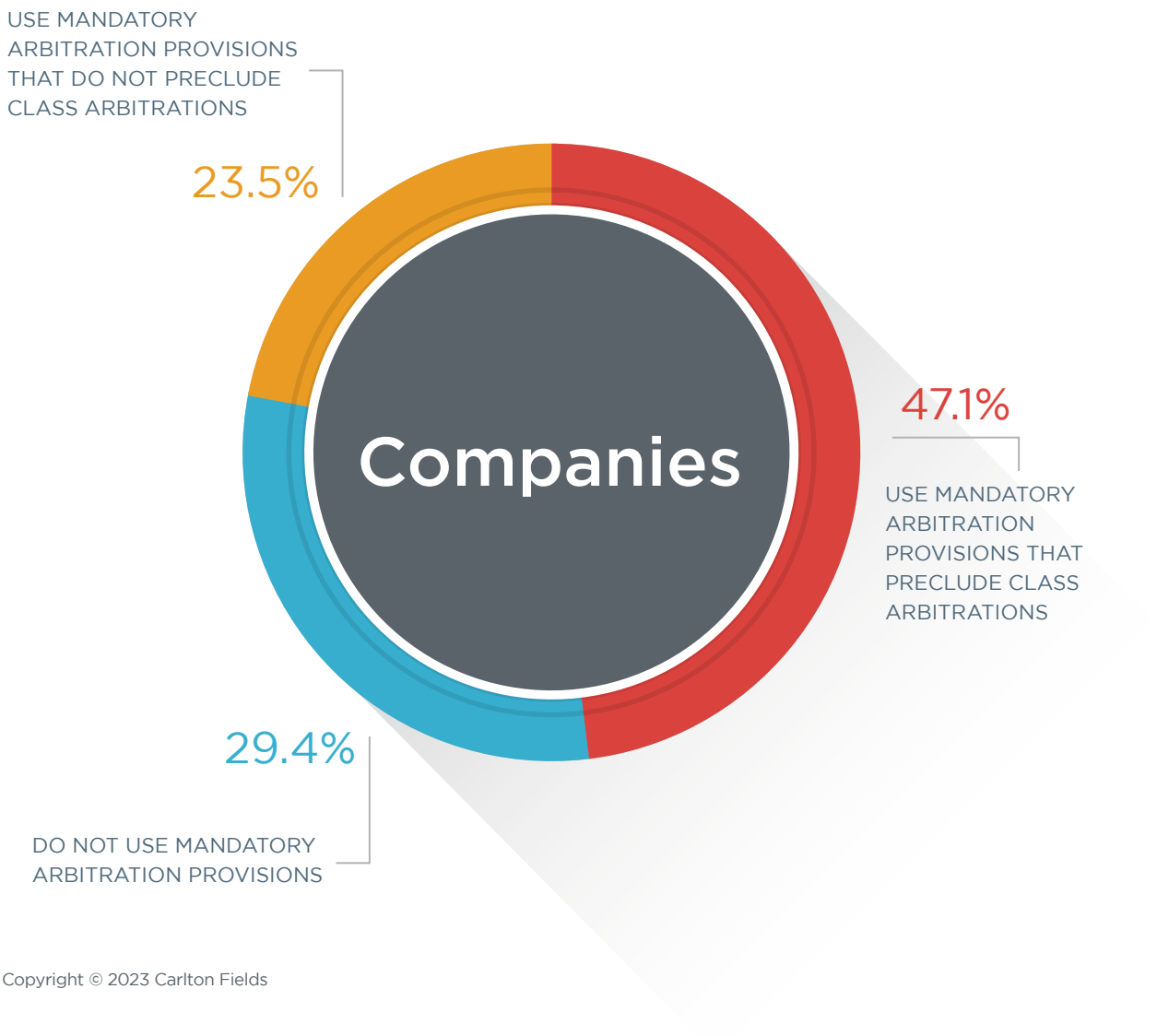
PERCENT OF COMPANIES



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Companies Largely Split on Mandatory Arbitration Provisions

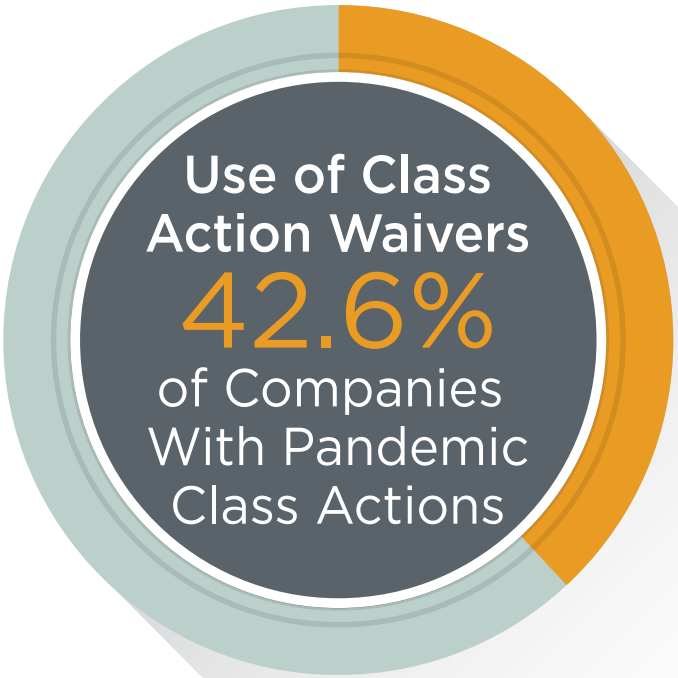
Most companies are using mandatory arbitration provisions in at least some of their contracts, but they are split as to whether the provisions should preclude class arbitrations. By contrast, 30% of companies do not use mandatory arbitration provisions. Class arbitration can occur when the arbitration agreement does not specify that the arbitration shall be on an individual basis, and therefore the arbitration may allow for class claims, consolidation, or joinder.



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Companies Are Using Class Action Waivers in Contracts

Approximately four in every 10 companies use class action waivers in their contracts. Although these waivers can be a strong risk management tool, 57% of companies omit class action waivers for reasons that include perceived regulatory resistance or other barriers in some jurisdictions.



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In Their Own Words: Corporate Counsel on Why They Use Class Action Waivers

"Yes, we don't want them to be able to file class actions. They should have to arbitrate on their own merit as individuals."

– Director of Litigation, Fortune 500 Retail Company

"Yes, it's the historical practice of the company to streamline the process, drive down costs, and keep issues as confidential as possible."

– Assistant General Counsel & Global Disputes Lead, Large Global Manufacturer

"No, we never looked at using these because there are some regulatory blockades and some court findings that concluded these waivers were not permissible in some jurisdictions."

– Senior Vice President, Consumer Products, Global Financial Services Company

"No, we have looked at it, but it would require a significant amendment to our products like including detailed manuals to go with our products. We have thousands of products so that would be very complex."

– Chief Global Litigation Counsel, Prominent Consumer Goods Manufacturer

"No, but this may change in the future. We are looking at this currently based on what our competitors do. Most of them use mandatory arbitration provisions and mandatory class action waivers."

– Senior Corporate Litigation Counsel, Large Regional Energy Company

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Few Companies Have Faced Mass Arbitration

For the first time this year, the survey asked about mass arbitration, which has captured legal headlines in the past year or two in a few, high-profile instances. Mass arbitration occurs when a company faces a series of hundreds or even thousands of nearly identical, single claimant arbitrations. A coordinating plaintiff's counsel usually represents each of these claimants, alone, or with a consortium of local counsel. Where this has been done on a large scale, the company defending these arbitrations typically has an arbitration agreement that contains a class action waiver and some provision that it will pay the costs of arbitration. By filing en masse, the claimants' law firm is able to exert pressure on the company to resolve the claims by pointing to the arbitration agreement's provision that the company pays the costs of arbitration, including filing fees. Among our survey respondents, few companies have faced mass arbitration.



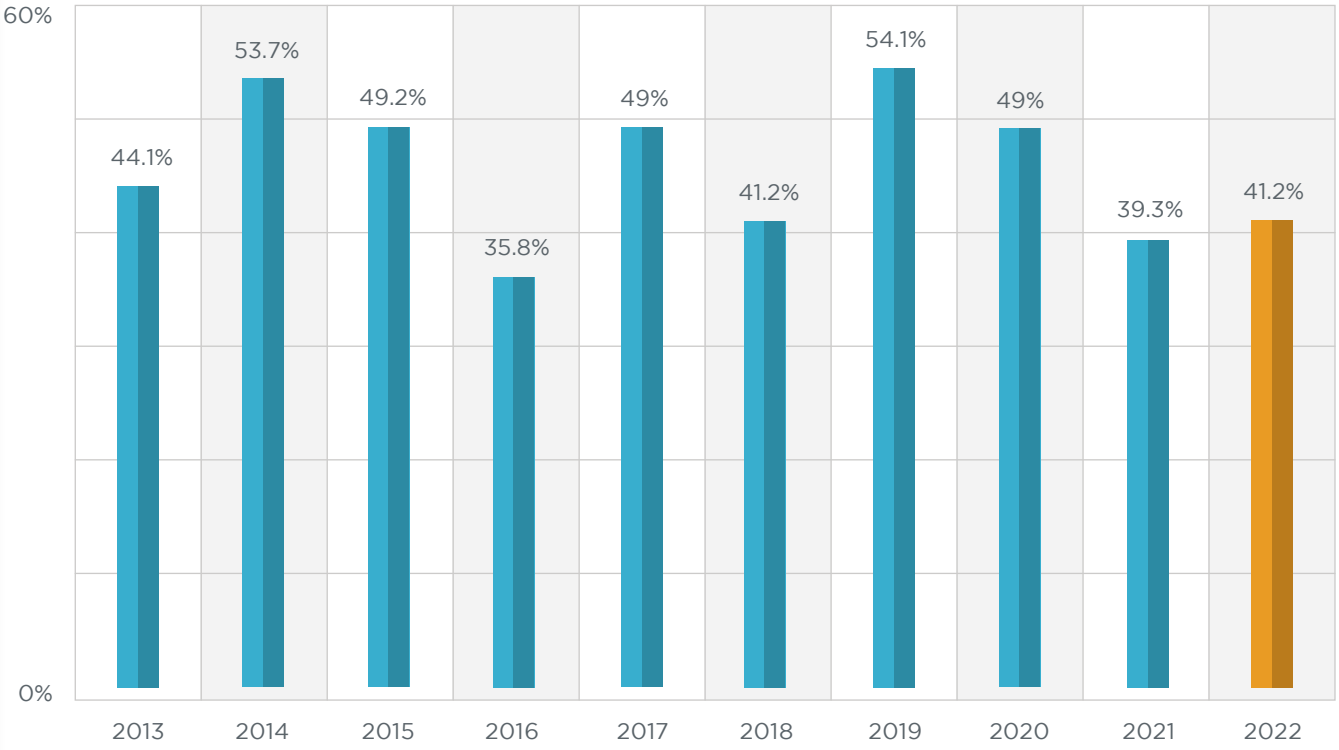
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Use of AFAs Remains Low Due to Turnover of Corporate Counsel and Law Firms

AFA usage remains near historically low levels, with less than half of companies using alternative fees to defend class actions. Companies reported that the factors contributing to the low usage of AFAs include increased turnover of in-house attorneys, law firm turnover, and more law firm resistance due to demand for legal services exceeding supply.

Alternative Fee Arrangement Use in Class Actions

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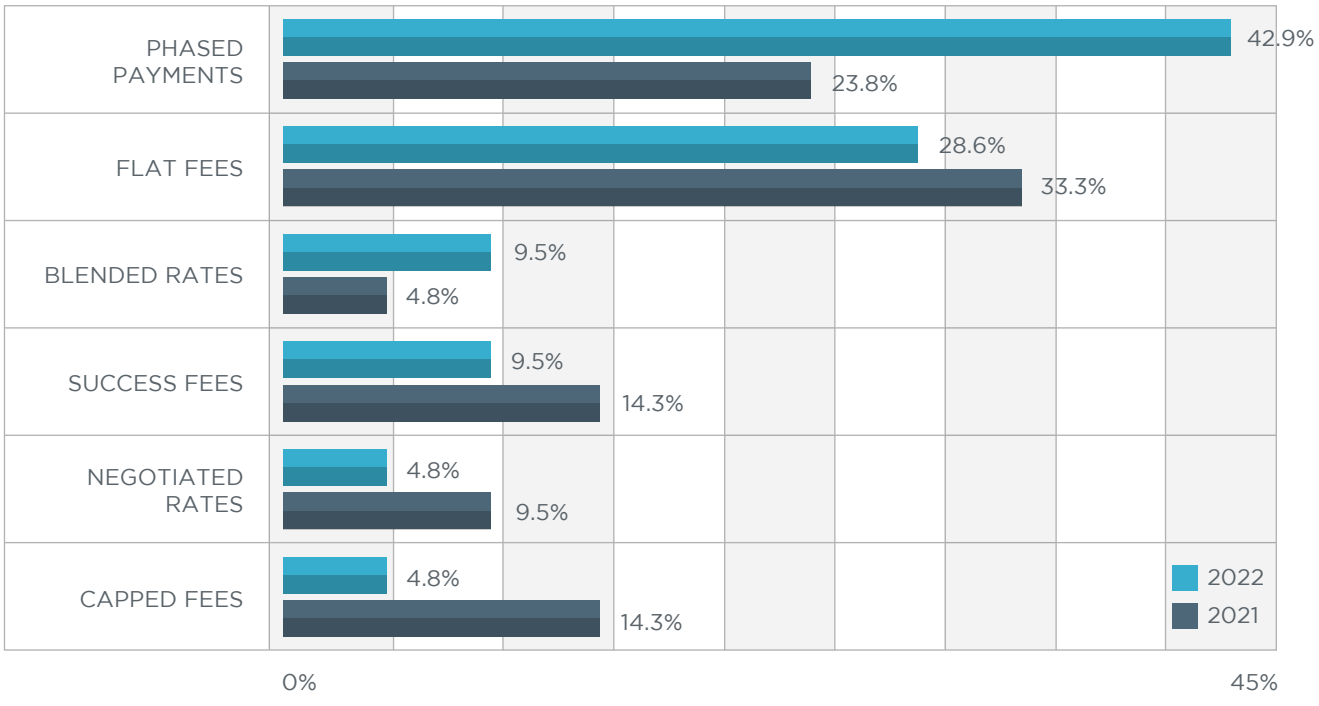
Phased Fixed Fees Are Most Successful Alternative Fees

For the first time, companies reported phased payment arrangements to be the most successful AFA for class actions. Phased payment (or phased fixed fee) arrangements involve a proposal from the firm for a separate, flat fee for each portion of a matter. In a class action, these phases can include the initial case assessment, the motion to dismiss phase, the class certification phase, and other pre-defined case events. Phased payments require a thoughtful budget at the outset, and offer predictability and more focused management of discrete components of class action work than a budget alone. In the version of this approach where the fee is set just before that stage of the case starts, rather than at the outset, this approach also enables corporate counsel and law firms to learn from the case experience and set more realistic and reliable flat fees for ensuing stages.

Flat fees (for the entire matter) are the second most successful AFA for class actions. Other AFAs are reported to be significantly less successful, with capped fees seeing a particularly steep decline, likely due to high demand for quality legal services in 2022.

Success of Alternative Fee Arrangement Types in Class Actions

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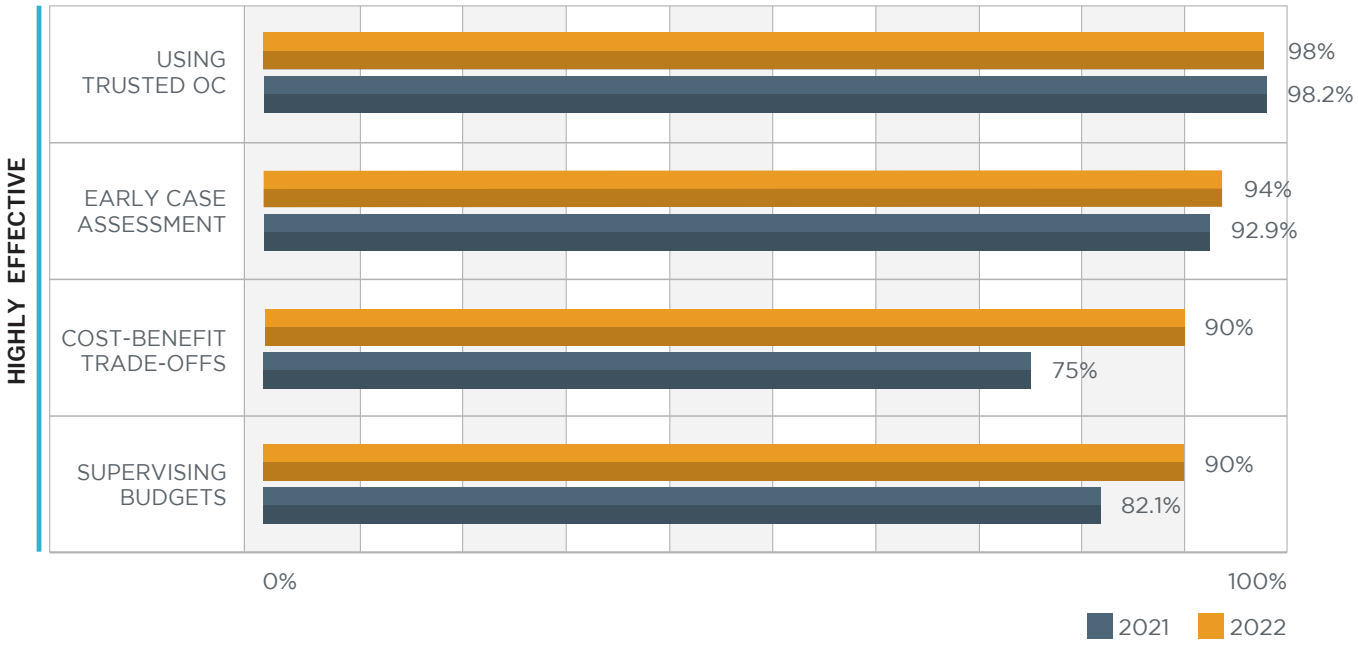
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Using Trusted Counsel Is the Best Tool to Control Costs

The chart below shows the top four cost control tools in this year's survey. Use of trusted counsel ranks as the most effective tool to reduce and control legal costs. Companies believe trusted counsel will use experience to make the right decision and respect the need to keep costs down without sacrificing the defense. Early case assessment rivals using trusted counsel as the most effective cost reduction tool, and the process can identify the points of strength and weakness in the defense and allow companies to deploy resources to the most effective strategies for the life of the matter. Companies reported that cost-benefit tradeoffs also serve as a major cost reduction tool, with a big jump from last year. With this technique, the in-house department weighs the cost of each potential step, which may include forgoing a motion to dismiss and moving directly to oppose class certification. Close supervision of budget — which requires an investment of administrative time from in-house counsel — also saw a jump from last year in effectiveness.

Cost Reduction Policies and Practices (Top 4)

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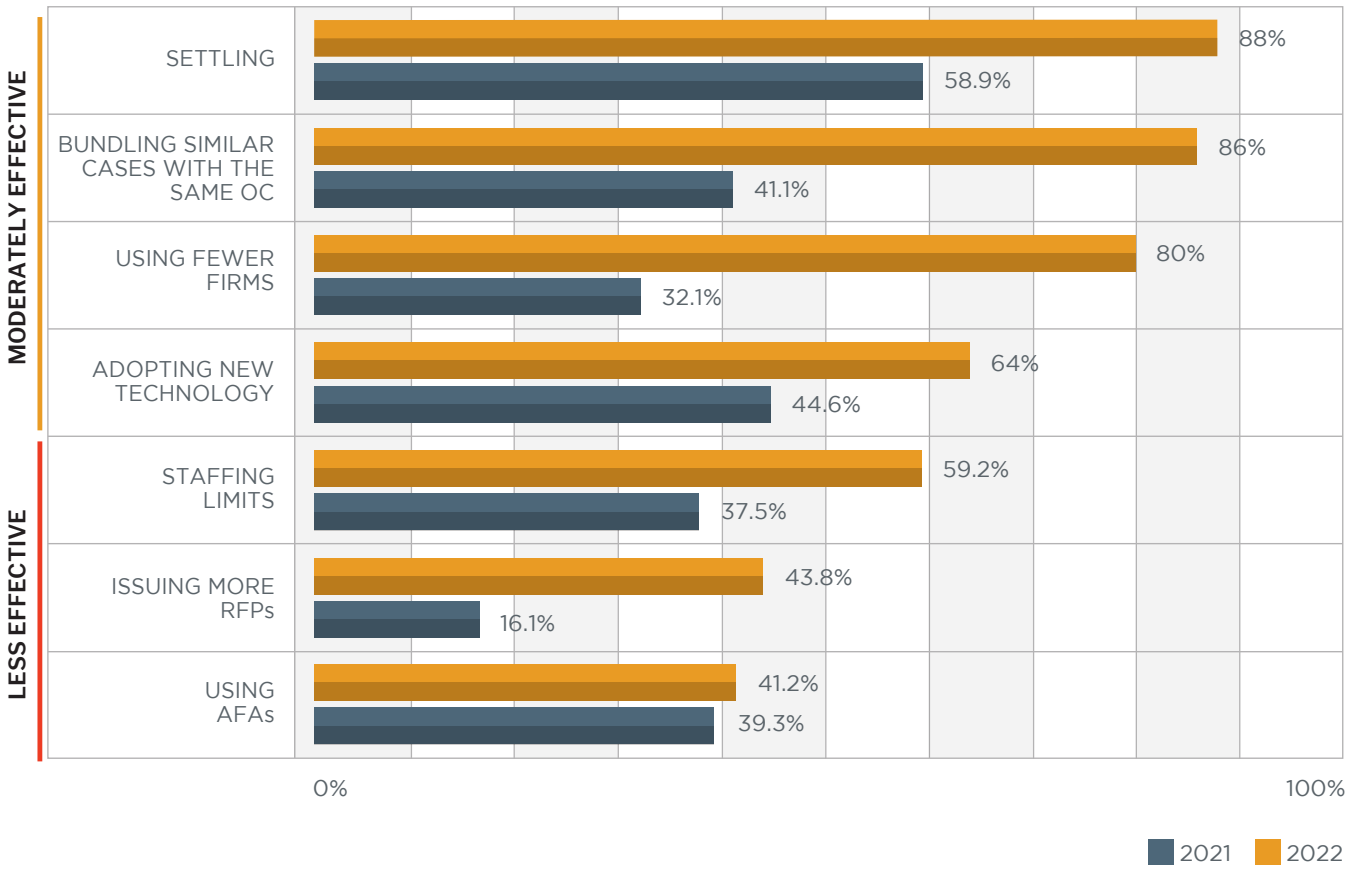
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Bundling Cases With Fewer Outside Firms Grows as a Way to Control Costs

The chart below shows the effectiveness of several other techniques that in-house counsel use to reduce costs in defending class actions. Bundling similar cases with one law firm and reducing the overall number of law firms are two sides to the same coin, and both saw large jumps in perceived effectiveness in the past year. This makes sense, as companies see the benefits of trusting a smaller group of counsel, who know their business, to balance a strong defense with efficiency. The effectiveness of issuing more RFPs tripled, showing more optimism in RFPs as a cost control tool either by reducing costs for existing counsel who participate or by identifying more-skilled attorney teams to work with going forward. The effectiveness of settling — which was reported at 88%, up from about 60% last year — should not be confused with the number of settlements, which declined this year. The success of settlement, as reported below, reflects that counsel viewed those settlements as good strategic decisions for cost control.

Cost Reduction Policies and Practices (continued)

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Early Case Assessment Is a Top Class Action Management Strategy

When asked how they described their approach to managing their existing docket of class actions, more than 40% of in-house attorneys identified early case assessment, a factor of almost two to one over the next most common approach. An aggressive approach — where companies throw everything they can at a plaintiff — is a distant second to early case assessment. And while companies identified the use of trusted counsel as the most effective cost-control tool, only two out of every 10 in-house attorneys saw that as their preferred management approach.

Approach to Managing Upcoming Class Actions

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In Their Own Words: Corporate Counsel on Their Approach to Managing Existing Class Actions

"Immediate case assessment and based on the results, unless we see a clear path to victory, we would try to convince the plaintiff to drop the case, or we will negotiate a settlement before class certification because we are not going to trial."

– Vice President and Associate General Counsel, Fortune 500 Retail Company

"Early case assessment so we are able to justify to ourselves why we are doing what we are doing and to know why we are fighting cases."

– Vice President and Assistant General Counsel, Global Financial Services Company

"My team is very involved from beginning to end and very active in the early case assessment process. We always know the case better than the plaintiff and either push for early settlement or a summary judgment to dismiss."

– Associate General Counsel, Labor & Employment, Large Transportation Company

"We generally take a very aggressive approach upfront and look at the risk reward tradeoffs. We look at the bigger picture and don't get stuck in the minutia."

– Vice President & Deputy General Counsel, Large Telecommunications Company

"We are never in a rush to settle. We always wait to see what the courts will do before taking an approach."

– Vice President, Senior Associate Counsel, Prominent Insurance Company

"If we are strong in our defense, we contact opposing counsel asserting no claim. If that doesn't work, we use a scorched earth defense. If we can establish nuisance value, we attempt to settle or else go to the mattresses."

– Director of Litigation & Customer Satisfaction, Fortune 500 Retail Company

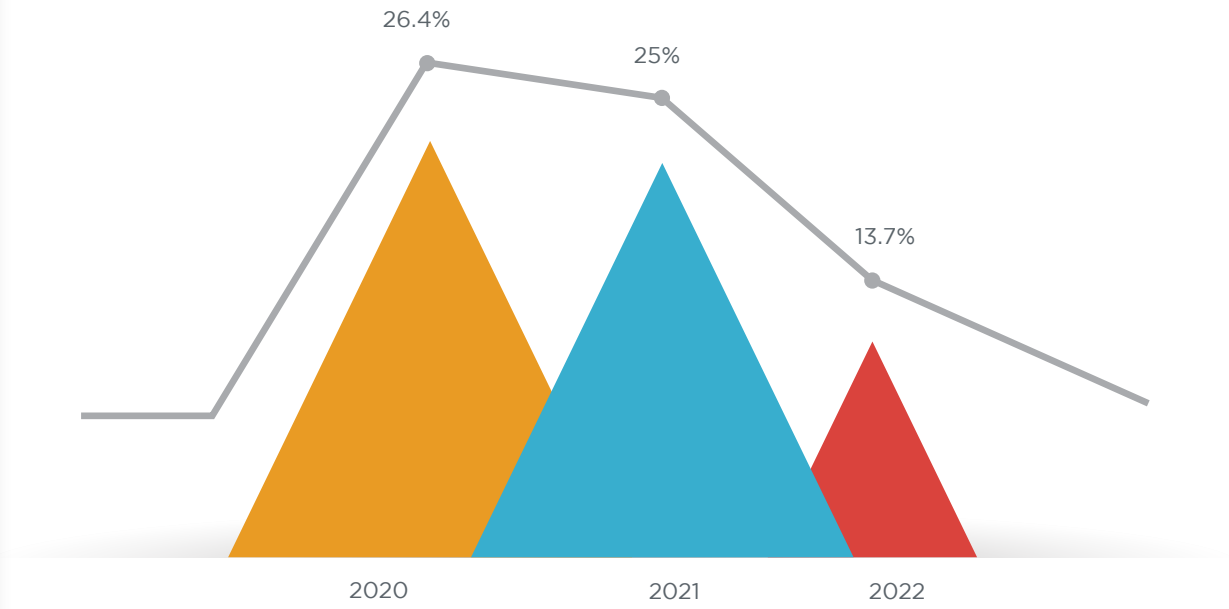
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Big Drop in Companies Facing Class Actions Arising Out of the COVID-19 Pandemic

The number of companies reporting an active, putative class action related to COVID-19 is down by almost half. Corporate counsel report that workforce and regulatory issues, and employee activism, are taking the place of COVID-19 related issues on their docket.

Defending COVID-19-Related Class Actions

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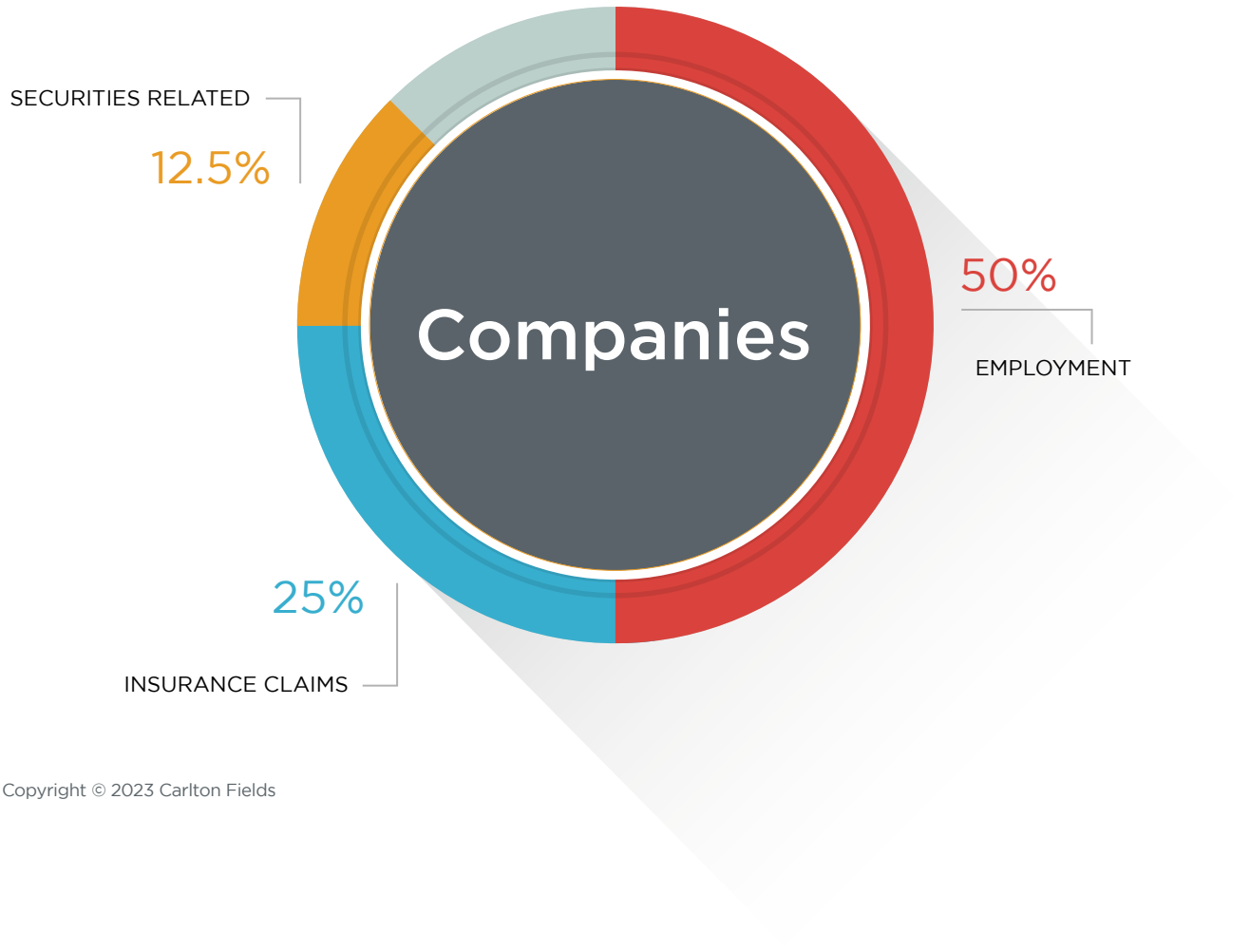
Half of Reported Pandemic Class Actions Are Employment Claims

Of the remaining pandemic-related class actions, companies reported three major types: (1) employment claims related to wage and hour, discrimination, and hybrid work policies; (2) insurance-related actions dealing with claims for more coverage than insurance companies interpret in their policies (most of these claims are for business interruption); and (3) allegations of false or incomplete disclosures to investors related to fraud, discrimination, or COVID-19 policies and practices.

Note: Only insurance companies identify insurance claims.

Types of COVID-19-Related Class Actions

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METHODOLOGY AND APPROACH

The 2023 Carlton Fields Class Action Survey results were compiled from 410 interviews with general counsel, chief legal officers, and direct reports to general counsel. Consistent with the approach used in past years, to control for bias and assure objectivity, Carlton Fields retained an independent consulting firm to select the companies and conduct the interviews. The consulting firm provides only aggregate data to Carlton Fields. Individual responses and company names are kept confidential and excluded from the survey results.

Surveyed companies had an average annual revenue of $23.7 billion and a median annual revenue of $14.1 billion. They operate in more than 25 industries, including banking and financial services, consumer goods, energy, high tech, insurance, manufacturing, pharmaceuticals, professional services, and retail trade.

ABOUT CARLTON FIELDS

Carlton Fields has litigated and counseled clients in hundreds of class actions for more than 35 years in federal and state courts across the nation. These cases present unique challenges due to their different rules, enhanced scope, and higher stakes. The firm understands the potential impacts, costs, and risks associated with class actions and is a leader in developing legal approaches and strategies for managing class action litigation.

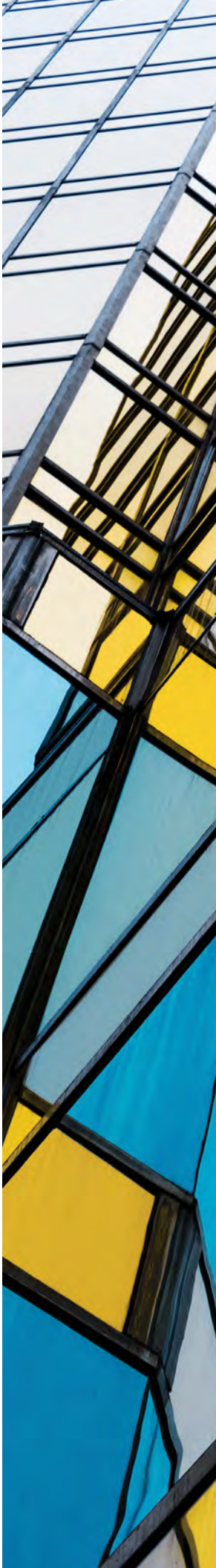
If you would like to learn about the survey and how these results may impact you, please contact **John E. Clabby** at 813.229.4229, jclabby@carltonfields.com, or **D. Matthew Allen** at 813.229.4304, mallen@carltonfields.com.

To obtain additional copies of this report, visit https://ClassActionSurvey.com.

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