JUDICIAL Hellholes®

2025
2026

Plaintiffs' Lawyers' Laboratories

Eight Jurisdictions Named to Annual List

ATR FOUNDATION

"Stay away. Get out of cases early, do as little business in the jurisdiction as possible, and drive 500 miles out of the way if need be to avoid being anywhere near the place."

– South Carolina defense attorney Stephen McConnell

"Our hospitals are one lawsuit away from closing their doors."

– President and CEO of the Hospital and Healthsystems Association of Pennsylvania describing the troublesome impact of the expansive medical liability in the state

"The State seems to have largely ceded control of the litigation to the private plaintiffs' lawyers and deferred to their legal positions."

– former U.S. Attorney General Bill Barr in a letter to Louisiana AG about state's coastal litigation

"The average New Yorker feels the pain too. Nuclear verdicts (and routinely excessive verdicts) drive insurers from the market and increase premiums. The twin pressures of decreasing competition and increased insurance costs are ultimately passed through to the consumer. This is the same consumer and taxpayer who was leaving New York at a higher rate than any of the 50 states even before COVID-19."

– The *New York Law Journal* op-ed discussing the economic impact of New York's legal climate and the rise in excessive verdicts.

"St. Louis City juries, which are well known for issuing record-setting verdicts, will be invited to assess liability against companies located anywhere in the world on behalf of foreign nationals who have never been to Missouri, irrespective of the law or policy of the foreign nation."

"The legislature never intended the Act to be a mechanism to impose extraordinary damages on businesses or a vehicle for litigants to leverage the exposure of exorbitant statutory damages to extract massive settlements."

– The dissent in *Cothron v. White Castle* (Illinois Supreme Court), discussing the abuses of Illinois' BIPA statute

Preface

Since 2002, the American Tort Reform Foundation's (ATRF) Judicial Hellholes® program has identified and documented places **where judges in civil cases systematically apply laws and court procedures in an unfair and unbalanced manner**, generally to the disadvantage of defendants. More recently, as the lawsuit industry has aggressively lobbied for *legislative* and *regulatory* expansions of liability, as well, the Judicial Hellholes® report has evolved to include such law- and rule-making activity, much of which can affect the fairness of any given jurisdiction's civil justice climate as readily as judicial actions.

The content of this report builds off the American Tort Reform Association's (ATRA) real-time monitoring of Judicial Hellhole® activity year-round at JudicialHellholes.org. It reflects feedback gathered from ATRA members and other firsthand sources. And because the program has become widely known, ATRA also continually receives tips and additional information, which is then researched independently through publicly available court documents, judicial branch statistics, press accounts, scholarship and studies.

Though entire states are sometimes cited as Judicial Hellholes®, specific counties or courts in a given state often warrant citations of their own. Importantly, jurisdictions singled out by Judicial Hellholes® reporting are not the *only* Judicial Hellholes® in the United States; they are simply among the worst. The goal of the program is to shine a light on imbalances in the courts and thereby encourage positive changes by the judges themselves and, when needed, through legislative action or popular referenda.

ABOUT THE AMERICAN TORT REFORM FOUNDATION

The American Tort Reform Foundation (ATRF) is a District of Columbia nonprofit corporation founded in 1997. The primary purpose of the foundation is to educate the general public about how the civil justice system operates, the role of tort law in the civil justice system, and the impact of tort law on the public and private sectors.

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Executive Summary

The **2025-2026 Judicial Hellholes®** report shines its brightest spotlight on eight jurisdictions that have earned reputations as Judicial Hellholes®. Some are known for nuclear verdicts and allowing innovative lawsuits to proceed or for welcoming litigation tourism, and in all of them state leadership seems eager to expand civil liability at every given opportunity.

JUDICIAL HELLHOLES®

#1 LOS ANGELES The jurisdiction separated itself as the worst of the worst in 2025. It saw an eye-popping $1 billion nuclear verdict®, fraud allegations exposing abusive litigation practices, and courts entertaining novel liability theories that expand defendants' exposure. Small businesses remain frequent targets of predatory ADA lawsuits and other no-injury lawsuits, while ongoing attacks on arbitration threaten an essential tool for resolving disputes fairly and efficiently.

#2 NEW YORK CITY The "Fraudemic" is shining a spotlight on the extensive lawsuit abuse occurring in the city's courts. The courts are prolific producers of nuclear verdicts® and have adopted expansive theories of product liability for tech companies. No-injury lawsuits flood the system and the city remains a hotbed for asbestos litigation.

#3 SOUTH CAROLINA ASBESTOS LITIGATION The judge overseeing the court has created an international legal crisis through corporate takeovers and the inappropriate appointment of a receiver over international entities. The court is known for its relaxed causation standard and routine imposition of sanctions. The court has even increased jury verdicts when it feels the jury didn't go far enough.

#4 LOUISIANA COASTAL LITIGATION This year the first case in the never-ending coastal litigation went to trial and resulted in an astounding nine-figure nuclear verdict®. Louisiana plaintiffs' lawyers have cozied up to state leaders and the courts are filled with political bias.

#5 THE PHILADELPHIA COURT OF COMMON PLEAS A RICO suit has raised allegations of fraud in Philly's courts and the Complex Litigation Center is attracting new mass torts litigation nationwide. Nuclear verdicts® have reached historic levels and courts allow forum shopping and expansive medical liability. The City remains a hotspot for asbestos litigation.

#6 ST. LOUIS Out-of-town ADA litigation is targeting St. Louis small business, and the courts are prolific producers of nuclear verdicts®. Judges allow junk science to fuel litigation and are throwing out jury verdicts that they disagree with.

#7 COOK, MADISON & ST. CLAIR COUNTIES, ILLINOIS This trio of counties is ground zero for baseless baby formula litigation based on junk science. The legislature opened the door to even more litigation tourism, attracting cases nationwide and no-injury lawsuits are filling the courts' dockets. The counties are hot spots for asbestos litigation and nuclear verdicts® are the norm.

#8 KING COUNTY & WASHINGTON SUPREME COURT The state's high court reinstated a nuclear verdict® and opened the door to junk science. The courts allow law-shopping and expanded asbestos liability for businesses. King County is now home to novel climate change litigation and is leading the charge against oil and gas companies.

WATCH LIST

Beyond the Judicial Hellholes®, this report calls attention to six additional jurisdictions that bear watching due to expansive liability and concerning trends.

TRIO OF GEORGIA COUNTIES After spending several years at or near the top of the Judicial Hellholes® list, the state dropped to the Watch List after the Governor and legislature delivered a landmark legal reform package to address longstanding issues plaguing the state's civil justice system. A trio of Georgia county courts have been particularly problematic in recent years and judges in Gwinnett, Fulton and Cobb counties must restore fairness and level the playing fields to ensure plaintiffs' lawyers aren't exploiting the system for their own financial benefit.

PENNSYLVANIA SUPREME COURT After spending recent years atop the Judicial Hellholes® list alongside the Philadelphia Court of Common Pleas, Pennsylvania's highest court had a relatively quiet year. The Court strengthened the doctrine of *forum non conveniens* to help rein in forum shopping but restricted the availability of arbitration in certain cases. Several significant cases remain pending.

TEXAS For years, Texas has stood as the gold standard for balanced courts and a fair civil justice system. Recently, however, cracks have begun to appear in that once-solid foundation. Trial courts across the state are developing a growing reputation for pro-plaintiff leanings and nuclear verdicts®. Compounding these concerns, Attorney General Ken Paxton has launched a wave of industry-targeted lawsuits under the *Make America Healthy Again* banner — awarding lucrative contracts worth millions of dollars to his political allies in the plaintiffs' bar.

MICHIGAN SUPREME COURT After ranking #8 in last year's report, the Michigan Supreme Court has moved to the Watch List — largely because it has yet to issue several high-profile, long-awaited decisions.

LOUISIANA Fallout from "Operation Sideswipe" continues and a copycat fraudulent scheme was uncovered in another Louisiana parish. The Louisiana legislature enacted reforms in 2025 to address the particular abuses in the state's civil justice system and ATRF will monitor how the courts respond.

KENTUCKY The state once again finds itself on the Watch List after a one-year hiatus. Trial courts across the state award nuclear verdicts® and issue liability-expanding decisions.

DISHONORABLE MENTIONS

Dishonorable Mentions comprise singularly unsound court decisions, abusive practices or other actions that erode the fairness of a state's civil justice system and are not otherwise detailed in other sections of the report.

Included among this year's list, the Fourth Circuit embraced an expansive view of public nuisance, the Colorado Court issued a problematic evidentiary decision and the Ohio appellate courts allowed for unlimited noneconomic damages.

POINTS OF LIGHT

This year's report again enthusiastically emphasizes the *good* news from some of the Judicial Hellholes® states and other jurisdictions across the country. **Points of Light** are examples of fair and balanced judicial decisions that adhere to the rule of law.

Among the positive developments, a Colorado court rebuffed medical monitoring damages theory, the Delaware Supreme Court rejected junk science, and the Maine Supreme Court declined to broaden the scope of public nuisance liability. Additionally, a North Carolina court reaffirmed legislative authority to limit noneconomic damages and the Utah high court eliminated 'phantom damages' windfalls.

CLOSER LOOKS

THE FIGHT AGAINST JUNK SCIENCE HEATS UP UNDER RULE 702 This December marks the two-year anniversary of the Federal Rules Committee adopting a heightened standard for expert evidence and strengthening judges' gatekeeping responsibilities. Since the implementation of the amended Rule 702, judges across the country have begun to rise to the challenge. Several circuit courts fully embraced the heightened standards, reinforcing the integrity of expert testimony and keeping junk science out of their courtrooms. Yet, despite this encouraging progress, some courts have resisted reform — continuing to allow unreliable expert evidence to fuel abusive and profit-driven litigation.

THE PROLIFERATION OF PRIVATE RIGHTS OF ACTION ATRF has observed a significant uptick in the inclusion of new private rights of action in legislation. This has occurred not only in states with a history of such laws, but also in states known for their leadership on tort reform. These proposals can be especially problematic when they discard or significantly relax key elements of claims, eliminate the need for a person to have experienced an injury to sue, provide for statutory damage awards rather than reimburse actual losses, or add on recovery of attorneys' fees that are typically not available in ordinary civil litigation.

Judicial Hellholes®

Emerging Concerns in 2025

- **$1 Billion Nuclear Verdict® for single plaintiff**
- **Fraud Allegations Highlight Abusive Practices**

Persistent Problems Worsen

- **Novel Theories of Liability Allowed to Proceed in Courts**
- **Abusive ADA Litigation Targets Small Businesses**
- **Arbitration Under Attack**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. California residents pay a "tort tax" of $2,458.33 (fourth highest in the nation) and 829,255 jobs are lost each year according to a recent study by The Perryman Group. In Los Angeles, the numbers are even worse. Los Angeles residents pay a "tort tax" of $3,658 and over 407,500 jobs are lost. If California enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $95.8 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of Los Angeles courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $275.5 million on more than 1.28 million advertisements across television, print, radio, digital platforms and outdoor mediums in the Los Angeles market.

LOS ANGELES 2025 - Q1-Q2

Medium	$	#
Spot TV	$50,604,667	170,755
Print	$1,253,859	183
Radio	$33,021,891	241,611
Digital	$1,611,539	57,572
Outdoor	$23,852,113	
	$110,344,069	**470,121**

California, a perennial Judicial Hellhole®, has appeared on the list almost every year since its inception. While little has improved across the state, this year, lawsuit abuse and judicial bias in Los Angeles have set it apart, propelling the jurisdiction to the very top of the list.

Los Angeles was the site of a billion-dollar talc verdict awarded to the estate of an 88-year-old plaintiff and an eye-popping multi-million-dollar award in a spilled tea case. This summer, RICO filings brought to light extensive alleged fraud in Los Angeles courts. The jurisdiction also continues to serve as a breeding ground for abusive lawsuits under the Americans with Disabilities Act and Proposition 65 claims, as well as privacy lawsuits that target small businesses. Courts have allowed novel theories of product and environmental liability to move forward, and lemon law cases routinely deliver windfall recoveries to plaintiffs' attorneys.

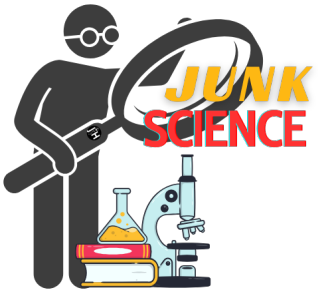
Nuclear Verdicts®

California had the most nuclear verdicts® in personal injury and wrongful death litigation of any state from 2013 through 2022 with 199. Even considering its size, the state places in the Top 10 for nuclear verdicts® on a per-capita basis. During this time, courts awarded more than $9 billion in damages in these cases.

Auto accident cases (35.2%) and product liability cases (22.6%) made up more than half of the massive verdicts and Los Angeles was home to more than one-third of these awards.

Mind-Boggling Talc Award

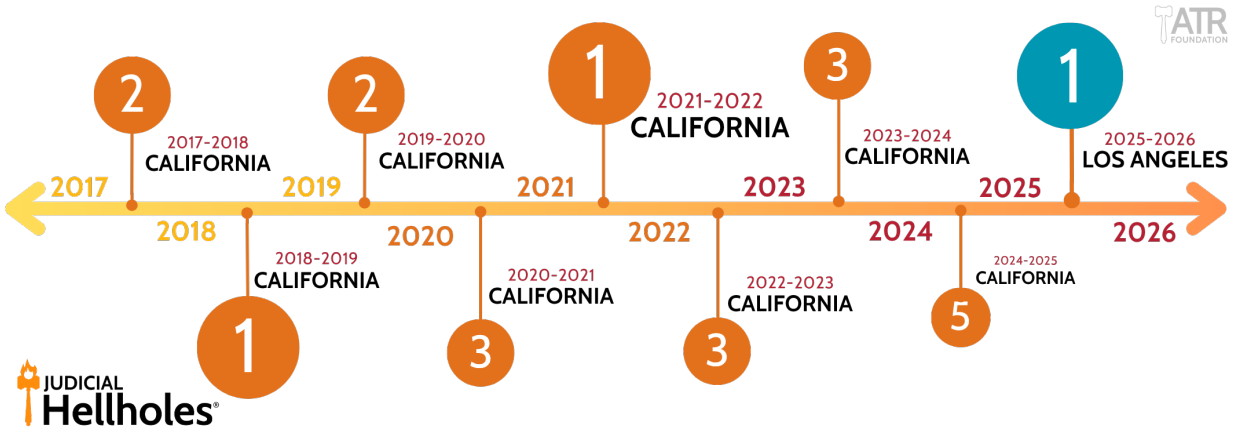
In October 2025, a Los Angeles jury shocked the world when it awarded almost $1 billion to the family of an 88-year-old woman who passed away after she was diagnosed with mesothelioma one year earlier. The plaintiff's lawyer alleged that she developed mesothelioma from Johnson & Johnson's baby powder, which she had used since the 1930s. The massive award included $16 million in compensatory damages and an eye-popping $950 million in punitive damages.



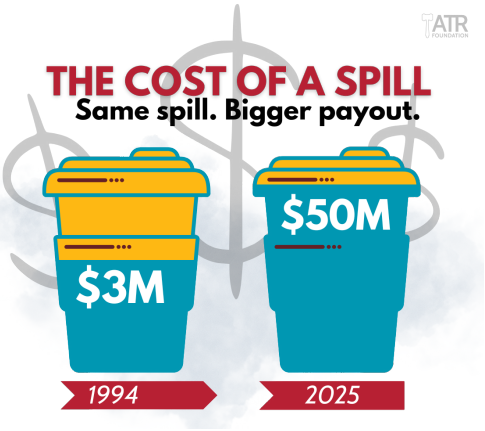
At trial, the court permitted the plaintiff's attorneys to present a frequent expert witness for the plaintiffs' bar, **Dr. Stephen Haber**, despite his lack of expertise in mesothelioma. Dr. Haber testified that spontaneously occurring mesothelioma is "exceptionally rare" and that virtually every case stems from asbestos exposure. However, peer-reviewed research overwhelmingly contradicts this assertion. The **World Health Organization** has stated that in North America, only an estimated 20% of mesothelioma cases in women are related to asbestos exposure.

Although routinely relied upon by plaintiffs' lawyers as an "expert," **Dr. Haber** has authored only two publications on mesothelioma throughout his career — and one of them directly undermines his own testimony in this case. In that report, he described an 83-year-old woman who developed mesothelioma with no evidence of prior asbestos exposure, contradicting his claim that naturally occurring mesotheliomas are "exceptionally rare." The woman in the *Moore* case was 87 at the time of her diagnosis. Age is a known risk factor for mesothelioma, regardless of exposure.

With massive verdicts like these regularly awarded and courts permitting "junk science" to flood Los Angeles courts, it's no wonder **Los Angeles County** is the trial bar's third-most popular venue in the country for mesothelioma filings.



Spilled Hot Beverage Leads to Millions



Thirty years ago, a McDonald's spilled coffee case became the posterchild for lawsuit abuse in the United States. In that trial, a jury awarded a plaintiff almost $3 million after she spilled hot coffee on her lap. Adjusted for inflation, this is equivalent to about $6.4 million in 2025. Most of the award was for punitive damages, which the court reduced before the parties settled.

Flash forward to March 2025 when a Los Angeles jury returned a $50 million verdict against Starbucks after a similar incident. In that case, while the plaintiff was picking up an order through the Starbucks drive-thru, a hot beverage came loose from the cardboard carrier and fell into his lap. The plaintiff's lawyer had asked for even more — an astounding $75 to $125 million. The trial court judge refused to reduce the verdict, finding it reasonable to award the 30-year-old plaintiff $1 million per year in compensatory damages for the rest of his life. Unless reduced on appeal, Starbucks will ultimately end up paying closer to $61 million once prejudgment interest and other costs are added.

Other 2025 Nuclear Verdicts

- **March 2025:** $32.5 million award in automobile crash case
- **April 2025:** $32.8 million award in automobile crash case
- **May 2025:** $36.4 million award in automobile crash case
- **July 2025:** $27.5 million in employment retaliation case

Drivers of Nuclear Verdicts®

There are three main drivers of nuclear verdicts® in Los Angeles: anchoring tactics, third-party litigation financing, and plaintiffs' lawyers use of the "reptile theory."

Anchoring

Anchoring is a tactic that lawyers use to plant an extremely high amount into jurors' minds to set a base dollar amount for a pain and suffering award, as occurred in the Starbucks trial. While some courts prevent or limit this tactic, Los Angeles judges freely allow it.

Third-Party Litigation Finance

The growing availability of third-party litigation financing is fueling the rise of nuclear verdicts® in Los Angeles. Litigation funders play an increasingly influential role in shaping case strategy, with their primary goal being to maximize profit. In many instances, they hinder fair resolutions and discourage reasonable settlements in pursuit of larger damage awards at trial.

Reptile Theory

Los Angeles plaintiffs' lawyers also resort to using the "reptile theory," a tactic that manipulates jurors into deciding cases based on raw emotion and perceived threats rather than evidence presented at trial. Los Angeles judges routinely allow plaintiffs' lawyers to introduce evidence of a company's general policies, practices, or alleged lack of compliance with government regulations, even if only remotely related to the plaintiff's case, to portray the business as a threat to public safety.

Fraud Alleged in LA Courts

RICO Case Targeting Lemon Law Abuses

Los Angeles-based **Knight Law Firm** is a prolific filer of lemon law cases. Its involvement in the abusive litigation plaguing California's civil justice system long has been chronicled by ATRF, and in May 2025, a **Racketeer Influenced and Corrupt Organizations Act (RICO Act)** lawsuit filed by Ford Motor Company raises new, serious allegations of fraud.

Ford filed a RICO Act lawsuit against **Knight Law Firm** and several other lawyers and law firms, alleging that they defrauded Ford and other automobile manufacturers by exploiting the state's lemon law and falsifying time sheets.

As discussed later in this section, in lemon law claims, plaintiffs' lawyers can recover their fees. Among the more egregious examples cited in the complaint are instances in which an attorney and his associate claimed to be in two different trials, in two separate jurisdictions, on the same day. That same attorney allegedly billed a 57.5-hour workday and recorded more than 24 hours of billable time on a single day on 34 occasions. Another lawyer reportedly claimed to have worked a 29-hour day.

According to the complaint, the defendants concealed their fraudulent billing practices for years by attributing inflated hours to different plaintiffs, making their reported workloads appear reasonable when viewed on a client-by-client basis.

This alleged scheme is an affront to the civil justice system, harming consumers by unnecessarily prolonging litigation and driving up costs. Defendants filed a motion to dismiss the lawsuit in September and its currently pending before the court.

Noteworthy

The **Knight Law Firm** ranked among the Top 3 plaintiffs' firms in California for campaign contributions between 2017 and 2023, donating more than $1.2 million to California-based candidates and committees.

Rideshare RICO Case

In July 2025, transportation network company, Uber, filed a RICO suit alleging that lawyers directed clients in the Los Angeles area to a network of "pre-selected medical providers" to treat negligible or non-existent injuries from minor collisions between 2019 and 2024. As discussed in the American Tort Reform Association's recent report, **Sanctionable**, this Los Angeles network included healthcare providers who allegedly provided unnecessary treatment and "artificially inflated bills." Defendants named in the RICO complaint include two law firms, two attorneys associated with those firms, an orthopedics practice, a surgery center, and a spinal surgeon, who, the complaint alleges, would falsely diagnose patients and recommend costly, unnecessary surgeries.

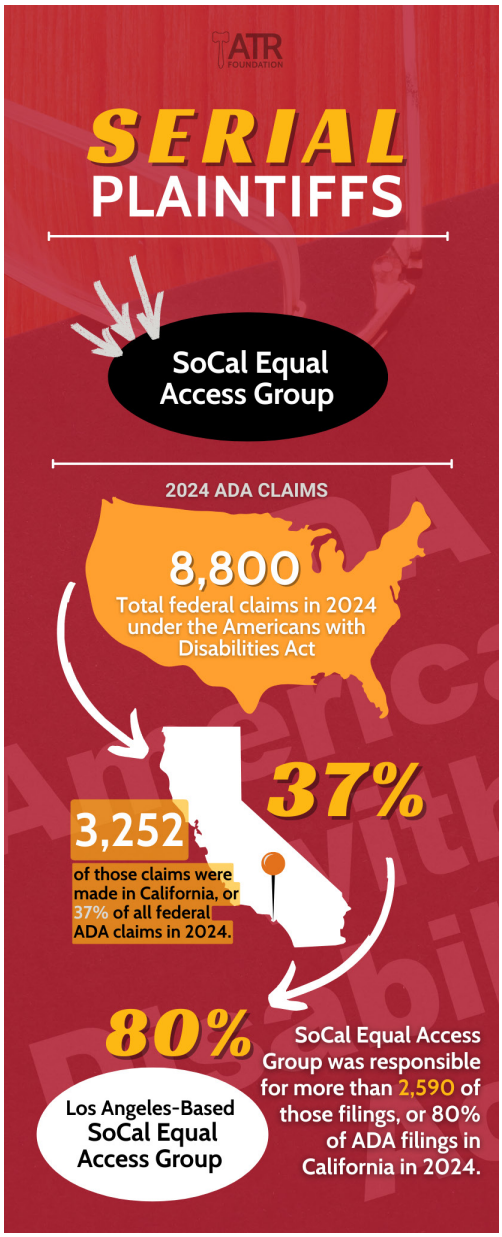
Rather than use the patients' own medical insurance for treatment, the medical providers took liens entitling them to payment of the inflated bills from their patients' lawsuit recoveries, according to the complaint. If the recovery fell short of the amount needed to fully pay the attorneys and medical providers and leave at least some money for the client/patient, there was allegedly an understanding that the medical providers would discount their bills.

The complaint alleges that those involved took advantage of a state-mandated $1 million rideshare insurance policy limit, which made accident claims highly lucrative and provided an incentive to exaggerate injuries and artificially inflate medical expenses. The complaint includes four examples of cases in which these practices allegedly occurred. The clients may not have known what was occurring and were not named as defendants in the lawsuit. In one instance, evidence in the complaint indicates that a client was

confused about why he was scheduled for so many doctor's appointments and the need for treatment. In that case, the complaint alleges that the charges were ten times more than the norm.

According to the complaint, in **Los Angeles County,** "approximately 45% of the fare of every Uber ride goes to mandated insurance costs, driving up prices for riders and pushing down earnings for drivers."

Abusive ADA Litigation Targeting Small Business



California's federal courts handle nearly 37% of the nation's litigation related to the **Americans with Disabilities Act (ADA)**, and **Los Angeles** is one of the state's most popular venues for such cases concerning the accessibility of businesses under the ADA.

These lawsuits claim that businesses violated standards under the **ADA** that are intended to ensure that public places are accessible to everyone but have been abused by serial plaintiffs and certain attorneys.

California once again led the nation with the highest number of ADA filings in 2024. Between January 1 and December 31, 2024, a total of 3,252 ADA Title III cases were filed in California — a more than 36% increase when compared with 2023. The Los Angeles–based **SoCal Equal Access Group** was responsible for nearly 80% of those filings at more than 2,590.

This year, California is on pace to meet or beat its increase in federal ADA filings. Through the first half of 2025, California far outpaced the rest of the country with 1,735 filings in federal courts — nearly double the number in the next highest state, Florida (989). This figure also represents an increase of nearly 200 filings compared to the same period last year.

Increasingly, these suits are being brought in California state courts, though the number is harder to track.

Most often, small businesses are the main target of this abusive litigation because they lack the resources to defend themselves and are more likely to settle. In Los Angeles, some of the most popular targets are breweries, hotels, bars, and restaurants. Some lawsuits also allege that business websites, of all types and sizes, lack tools for visually impaired consumers. California is also a popular state for these claims, falling behind only New York and Florida.

In California, penalties for accessibility violations are much higher due to the state's **Unruh Civil Rights Act**, which provides for a fine of $4,000 per violation, a fine other states do not have, plus attorneys' fees. Small businesses have sounded the alarm that something as minor as a missed signed or faded parking lot paint can lead to hundreds of thousands of dollars in liability.

Plaintiffs' Lawyers' Laboratory – Novel Theories of Liability Proceed

Product Liability

All Eyes on California Supreme Court

The **California Supreme Court** is reviewing a lower court's decision to embrace a novel theory of product liability. In ***Gilead Tenofovir Cases, Gilead Sciences v. Superior Court of the City and County of San Francisco***, the trial court imposed, and the **California Court of Appeal** affirmed, a new duty to innovate on manufacturers. It found that even if a product is not defective or unreasonably dangerous, a company can be held liable if it was researching and developing another product that it "knew" was "safer" and did not release that product fast enough. While the case arose in mass tort litigation in San Francisco, unless overturned, its impact will be felt statewide.

Prescription drugs already are regulated by the **Food and Drug Administration**, whose multiple trials and approval processes can be barriers to innovation. It's unclear how this new "duty-to-go-to-market" would complicate or interact with existing FDA approval processes. The ***Wall Street Journal*** has also pointed out that this theory could be used against any manufacturer, not just those that make prescription drugs: "Software, phone, car and medical-device manufacturers — the universe of potential defendants is endless."

Benzene Litigation

It should come as no surprise that when plaintiffs' lawyers went searching for a favorable jurisdiction to file a new wave of junk science litigation, they looked no further than California. In 2024, they filed a series of lawsuits in California federal court against Walgreens, Kenvue and Johnson & Johnson alleging that their acne products contain unhealthy amounts of benzene and that the companies failed to warn consumers of these dangers in the products' labels.

The lawsuits came almost immediately after **Valisure**, a private lab, submitted a citizen's petition to the FDA requesting an immediate recall of benzoyl peroxide (BPO) products following its detection of "high levels of benzene, a known human carcinogen, in many specific batches of BPO products…"

> ***"FDA has continued to raise concern that use of unvalidated testing methods by third-party laboratories can produce inaccurate results leading to consumer confusion."***
>
> — FDA in response to Valisure's citizen's petition

What follows should raise eyebrows for anyone considering the credibility of this litigation. The petition goes on to say, "the current evidence suggests that on-market BPO products could produce substantial amounts of benzene when stored at above-ambient temperatures, specifically 37°C (98.6°F), 50°C (122°F) and 70°C (158°F)," temperatures well above those found in a consumer's home or storage space.

In March 2025, the **FDA** responded to Valisure's petition and stated that, contrary to Valisure's reporting, "more than 90% of tested products had undetectable or extremely low levels of benzene."

Following the FDA's response, the plaintiffs' lawyers voluntarily dismissed the lawsuits.

CIPA

Abusive litigation targeting local small businesses under the **California Invasion of Privacy Act (CIPA)** is thriving in courts in Los Angeles.

Enacted in the 1970s, **CIPA** is designed to protect consumers from unlawful recording, eavesdropping, or any other infiltration of their communications with others, including businesses. With the rise of online business platforms and the use of data saving and sharing technology, plaintiffs' lawyers are now using the

statute to pursue modern privacy invasion claims. Specifically, the lawsuits claim that companies violate CIPA when they use data tracking pixels (cookies) and send them to companies like Facebook to produce targeted ads. The law provides for statutory damages of $5,000 per violation, even if plaintiffs do not suffer any actual harm, making it an attractive tool for the plaintiffs' bar.

Unlike the **California Consumer Privacy Act (CCPA)**, **CIPA** applies to any business that maintains a website regardless of size or revenue. This places Los Angeles small businesses directly in the crosshairs. **CCPA** only applies to businesses that generate $25 million in annual revenue or that maintain data for over 50,000 consumers.

PAGA

Enacted in 2004, California's **Private Attorneys General Act (PAGA)** has become known as the "Sue Your Boss" law. While its initial purpose was to protect workers, it has done little to help them. The plaintiffs' bar has been the true beneficiary.

In 2024, a total of 9,448 PAGA notices were filed — an increase from 7,826 in 2023. Remarkably, nearly 4,000 more PAGA cases were filed in California alone than claims brought under the federal counterpart, the **Fair Labor Standards Act (FLSA)**, across the entire country. Filings in 2025 continue the upward trend, with 7,987 PAGA notices filed between January 1 and November 5.

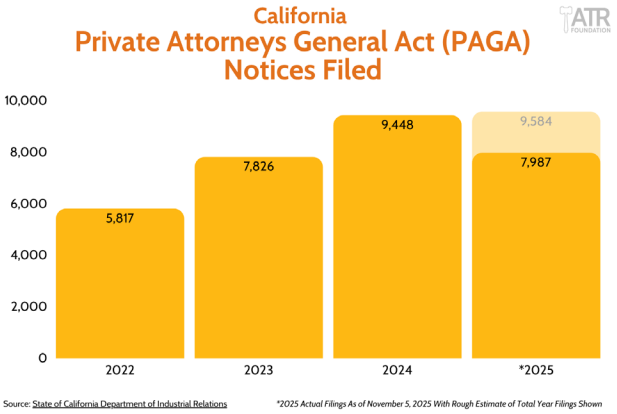
In July 2024, **Governor Gavin Newsom** signed two pieces of legislation aimed at addressing some of the problems around PAGA — **A.B. 2288**, authored by **Assembly Member Ash Kalra**, and **S.B. 92**, authored by **Senator Tom Umberg**. In the month immediately following enactment of the reforms, filings increased exponentially; however, filing activity decreased each month for the remainder of 2024, so there is hope that litigation abuse may stabilize moving forward.

Pepsi and **HBO** are among the many businesses facing new PAGA lawsuits in Los Angeles County in 2025.

LEGAL BACKGROUND

PAGA authorizes "aggrieved" employees to file lawsuits seeking civil penalties on behalf of themselves, other employees, and the State of California for labor code violations. Many PAGA lawsuits revolve around technical nitpicks, such as an employer's failure to print its address on employees' pay stubs, even though the address was printed on the paychecks themselves.

Three-quarters of the penalties paid by non-compliant employers go to the state's **Labor and Workforce Development Agency** while only 25% go to the "aggrieved employees" and their lawyers who take approximately one-third of that amount. In some cases, the plaintiffs' lawyers receive even more.



Circumventing Arbitration Clauses

Los Angeles judges have been hesitant to apply agreements to arbitrate disputes in employment contracts and have permitted plaintiffs' lawyers to file PAGA claims in court. On multiple occasions, Los Angeles judges have found companies' arbitration agreements one-sided and unconscionable, and thus, unenforceable. Unfortunately, California's **Second District Court of Appeal** has upheld these liability-expanding decisions.

Lemon Law

Los Angeles courts are flooded with lawsuits filed under California's **Song-Beverly Consumer Warranty Act**, known as the California lemon law. In 2024, attorneys filed more than 25,000 lemon law cases in California, a notable increase from the 22,000 filed in 2023.

A handful of law firms have established a niche market using the lemon law to target manufacturers. This is particularly a problem in **Los Angeles County**, where judges reported 700 to 800 lemon law-related cases on their individual dockets in recent years.

LEGAL BACKGROUND

The **Song-Beverly Consumer Warranty Act** clearly defines the obligations of the manufacturers of consumer goods. Under the law, a manufacturer guarantees that a product is in working order when sold. Should a product fail in utility or performance, the manufacturer must repair or replace the product or make restitution to the buyer in the form of a purchase refund. The Act also limits punitive damages to no more than twice the amount of actual damages.

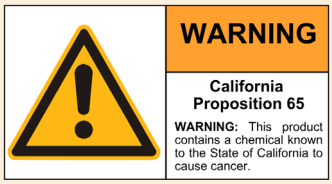
The intent of the law was to ensure manufacturers would repair, replace, or repurchase a consumer's defective vehicle as quickly as possible. However, plaintiffs' lawyers have learned to exploit loopholes in the law and create windfalls for themselves at the expense of a fair resolution for consumers. The law provides an incentive for attorneys to pursue litigation even when companies make a reasonable offer that consumers may be inclined to accept because of the ability to recover unlimited attorneys' fees for minor legal problems. This draws out the process for consumers and delays the time it takes to reach a fair resolution. The costly litigation also drives up the price of vehicles in the state. The true winners of the prolonged litigation are the plaintiffs' lawyers. By dragging out a case, they run up hefty legal fees on top of the statutory lemon law fee entitlement.

Prop-65

Proposition 65, a well-intentioned law enacted in 1986, has become one of the plaintiffs' bar's favorite tools to exploit. Baseless Prop-65 litigation unjustly burdens companies that do business in California.

LEGAL BACKGROUND

Prop-65 requires businesses to place ominous warnings on products when tests reveal the presence of even the slightest, non-threatening trace of more than 1,000 chemicals that state environmental regulators deem carcinogenic or otherwise toxic. Failure to comply can cost up to $2,500 per day in fines, and settlements can cost $60,000 to $80,000. A new chemical was added to the Prop-65 list, vinyl acetate, in January 2025 and warning requirements will go into effect January 2026.

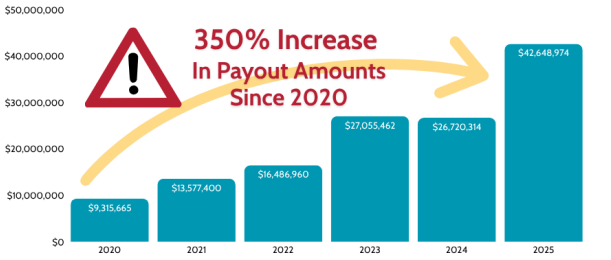


A troublesome part of the law allows private citizens, advocacy groups, and attorneys to sue on behalf of the state and collect a portion of the monetary penalties and settlements, creating an incentive for the plaintiffs' bar to pursue these types of lawsuits. Law firms identify serial plaintiffs who are willing to file multiple lawsuits despite not suffering any injuries or harm.

Each year, plaintiffs' lawyers send thousands of notices to companies threatening Prop-65 lawsuits and demanding a settlement. As of November 12, 2025, this year's out-of-court Prop-65 settlements totaled more than $43.7 million in response to 1,204 notices of violation, with a total of 4,549 60-day notices filed. This partial-year data represents a nearly 60% increase in the dollar amount of out-of-court settlements when compared with 2024's totals, which saw 1,082 settlements amounting to $26.7 million. In total, 5,398 60-day notices were filed in 2024 — a more than 30% increase when compared with 2023.

Nearly 90% of funds from out-of-court settlements go to attorneys' fees and costs — more than $38 million pocketed this year already by California trial lawyers. Total annual payouts in Prop-65 out-of-court settlements have increased more than 350% since 2020 when payouts totaled a comparatively miniscule $9.3 million.

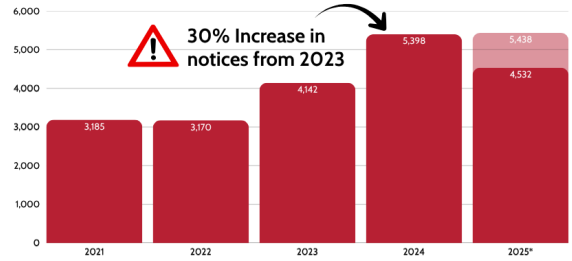
California Proposition 65 Out-of-Court Settlement Amounts



Source: California Office of the Attorney General

$2025 data as of 11/5/2025

California Proposition 65 Pre-Litigation 60-Day Notices



Source: California Office of the Attorney General

**Solid red bar shows actual data as of 11/5/2025, with light red bar showing estimated 2025 projection.*

SERIAL Plaintiffs

Prop-65 Serial Plaintiffs

Food and beverage companies are among the prime targets for Prop-65 litigation. This includes allegations that products contain traces of heavy metals, such as lead, cadmium, and arsenic. The key product categories for notices relating to heavy metals include seafood products, spices, and protein supplements.

Los Angeles courts have been a preferred venue for this litigation. This year, the **Consumer Advocacy Group**, a well-known serial plaintiff, filed several Prop-65 claims against food and beverage companies, as well as a grocery store chain, in Los Angeles County.

2025 Prop-65 Serial Plaintiffs

Plaintiff	Number of Settlements	Civil Penalty Collected	Attorneys' Fees Collected	Primary Law Firm
CalSafe Research Center, Inc.	226	$1,891,690	$17,052,410	Manning Law APC
Environmental Health Advocates, Inc.	223	$521,500	$4,583,800	Entorno Law LLP
Ema Bell	114	$97,000	$1,627,750	Evan Smith
Gabriel Espinoza	106	$140,500	$1,917,750	Evan Smith
Dennis Johnson	102	$180,100	$1,716,750	Voorhees & Bailey LLP
Keep America Safe and Beautiful	61	$159,400	$1,212,975	Seven Hills LLP
Clean Product Advocates LLC	45	$67,750	$1,101,750	Cliffwood law Firm, PC
Precila Balabbo	38	$46,000	$654,500	Evan Smith
Consumer Advocacy Group, Inc	39	$818,152	$2,591,000	Reuben Yeroushalmi
CA Citizen Protection Group, LLC	28	$16,700	$580,300	Khansari Law Corporation

Data as of November 11, 2025

This summer, the **Initiative for Safer Cosmetics** filed several lawsuits in Los Angeles alleging that 30 cosmetic companies failed to include Prop-65 warnings on dozens of products indicating the presence of diethanolamine, which state officials have listed as a carcinogen.

The serial plaintiffs' filings summarized in the accompanying chart have accounted for more than 75% of out-of-court settlements and roughly 70% of out-of-court settlement dollars paid out in 2025 at the time of publication. **CalSafe Research Center Inc.** alone received almost 45% of the total settlements.

The money companies spend on compliance and litigation unnecessarily drives up the cost of goods for California consumers. It also harms small businesses that do not have the in-house expertise or means to evaluate the need for mandated warnings or handle litigation.

Environmental Litigation

Environmental litigation has been an active area of business for the trial bar in recent years, especially in California. From climate change litigation to cases alleging PFAS contamination, plaintiffs' lawyers have sought to regulate industries through litigation while simultaneously lining their own pockets.

Plastics

Now, plaintiffs' lawyers are partnering with local and state governments, NGOs and environmental activists to target corporations they allege are responsible for the "plastics pollution crisis."

Los Angeles is among the local governments pursuing plastics litigation. In late 2024, **Los Angeles County** filed a lawsuit against PepsiCo and others, alleging that the companies manufactured and sold single-use plastic bottles that were not as recyclable as advertised and that often ended up as litter on county sidewalks, streets, beaches, parks, waterways, and other property.

The defendants sought to remove the case to federal court, but the plaintiffs successfully secured a remand to state court in early 2025.

Another plastics case in Los Angeles involves **Last Beach Cleanup**, a non-profit organization that promotes recycling efforts and sustainable business practices. In 2022, the group filed suit against a grocery chain over its use of plastic grocery bags. The complaint was amended several times to include multiple pollution-related allegations against the chain. After a trial was scheduled in **Los Angeles County Superior Court** for mid-2026, the parties settled.

Arbitration Under Attack

The availability of arbitration as an efficient and effective means of resolving claims is at risk of being significantly curtailed in California — with Los Angeles courts leading the charge.

In August, the **California Supreme Court** agreed with a Los Angeles court decision and upheld a state law that "requires companies to pay their arbitration bills within 30 days or risk having consumer and employment claims filed against them removed to court." In ***Hohenshelt v. Superior Court***, the majority found that the state law was not preempted by the **Federal Arbitration Act** (which prohibits state laws that disfavor resolving disputes through arbitration). As pointed out by Judge John Shepard Wiley in his dissent at the appellate stage, "[n]o other contracts are voided on a hair-trigger basis due to tardy performance... only arbitration contracts face this firing squad."

> ***"No other contracts are voided on a hair-trigger basis due to tardy performance... Only arbitration contracts face this firing squad. This statute thus is preempted."***
>
> – Judge John Shepard Wiley Jr.

In July 2025, the **California Supreme Court** issued another arbitration-related decision in a case that also originated in Los Angeles. The plaintiffs sued Ford for alleged defects in various vehicles. Although the purchase contracts, including the arbitration provisions, were between the consumers and the dealerships—not Ford—the manufacturer sought to compel arbitration. Ford argued that, even though it was a third party not directly involved in the contract, the plaintiffs' claims were so closely intertwined with the contract that Ford should be entitled to invoke the arbitration clause. Ford also argued that its express and implied warranties on the vehicles would not exist but for the underlying sales contracts that contained the arbitration provisions.

The Court rejected Ford's arguments, holding that because Ford was not a signatory to the arbitration agreement, it had no contractual right to enforce it. The Court emphasized that the contract's "we" and "us" language referred only to the purchaser and the dealership, excluding the manufacturer entirely.

A Legislative HeatWatch

The California legislature was put on a ***HeatWatch*** in a mid-year report issued by the **American Tort Reform Association**. Members of the legislature continue to pursue laws that further exacerbate the state's Judicial Hellholes® status. Their agenda emboldens the litigation lobby and puts employers at increasing liability risk. This year a few reform bills were introduced, but they stalled in committee.

Emerging Concerns in 2025

- **"Fraudemic" Plaguing NYC Courts**
- **Expansive Product Liability for Tech Companies**

Persistent Problems Worsen

- **Nuclear Verdicts®**
- **No-Injury Lawsuits Flood the Courts**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. New York residents pay a "tort tax" of $2,534.85, the third-highest in the country, and 427,794 jobs are lost each year according to a recent study by The Perryman Group. If New York enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $49.61 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of New York City courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $172.93 million on more than 648,000 advertisements across television, print, radio, digital platforms and outdoor mediums in the New York City market.

NYC 2025 - Q1-Q2

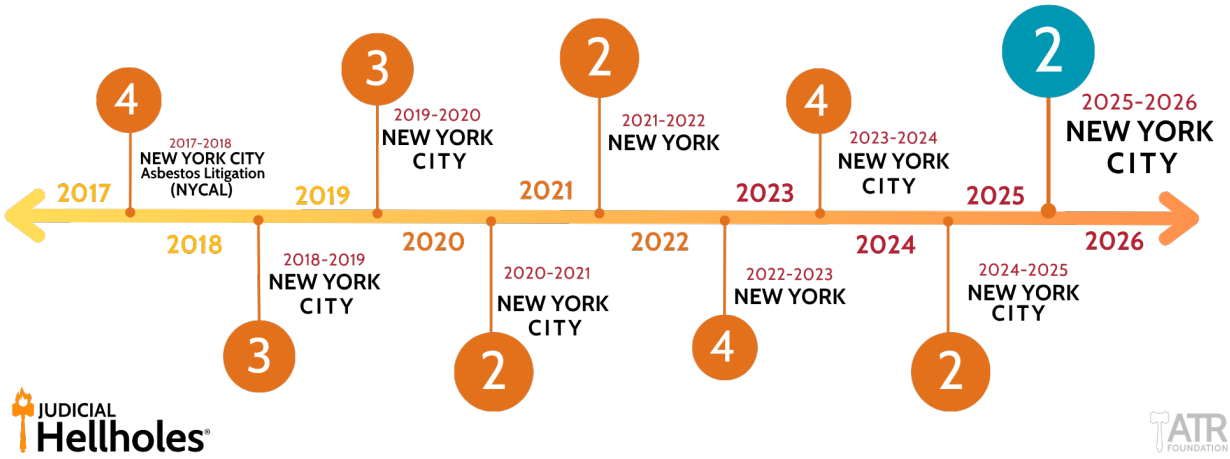
Medium	$	#
Spot TV	$27,716,544	86,874
Print	$430,587	125
Radio	$20,832,899	148,146
Digital	$1,218,571	3,894
Outdoor	$20,518,125	
	$70,716,725	**239,039**

The Big Apple has a big problem — fraud has been allowed to run rampant in its court system. From trip-and-fall schemes to staged accidents and fake construction injuries, New York judges have permitted plaintiffs' lawyers to cash in, and small businesses and unknowing residents are left to pick up the pieces. A series of RICO lawsuits against plaintiffs' firms, medical clinics, and others are shedding light on just how pervasive the "fraudemic" is in New York.

New York courts embrace expansive theories of product liability, fail to require plaintiffs to suffer actual concrete injuries, and nuclear verdicts® are the norm thanks to the courts' allowance of plaintiff-friendly tactics like anchoring. New York's liability laws and expansive court decisions are driving the affordability crisis as shown in this recent report from the Partnership for New York City.

New York City has "a highly litigious environment, causing business owners and investors to look for other areas to grow and allocate capital, limiting redevelopment and expansion."

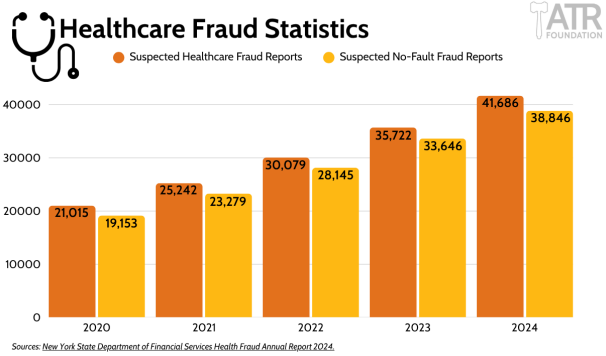
– Public Policy Institute of NYS Report



Taxpayers bear the brunt of the skyrocketing verdicts through higher prices on consumer goods and services and higher insurance premiums. New York City spent $2 billion in taxpayer funds to settle claims in 2024 alone.

The Big Apple's Big Problem – The "Fraudemic"

New York City continues to grapple with a growing "fraudemic," as insurance companies and small businesses face a wave of lawsuits built on phantom accidents and fabricated injuries. The state's no-fault insurance system — which holds insurers fully liable regardless of fault — has created fertile ground for abuse. Unscrupulous plaintiffs' lawyers and medical practitioners exploit the system for maximum payouts, often at the expense of their own clients and New York taxpayers. In some cases, patients are even subjected to unnecessary surgeries to bolster these fraudulent claims.



According to the New York State Department of Financial Services, there were nearly 39,000 reports for suspected no-fault fraud cases and nearly 42,000 suspected healthcare fraud reports in 2024, nearly double the number of reports in 2020.

As explored in the American Tort Reform Association's 2025 paper, "Sanctionable," New York is hot spot for unsupported, exaggerated, and suspicious lawsuits.

Slip-and-Fall Cases

New York ranks among the nation's top hotspots for fraudulent trip-and-fall schemes. From individuals filing bogus claims against small businesses to more organized operations, these scams leave New Yorkers and their businesses footing the bill.

One case in January exposed a man in the Bronx staging a fall on water he had intentionally spilled at a supermarket. Surveillance video revealed the scheme, preventing the store owner's insurance rates from spiking. The man's own attorney quickly dropped him once the evidence came to light. But cases like this — where the fraud is caught — are the exception. Most often, fraudulent claims slip through, driving up costs for honest businesses and consumers alike.

Business Scams

Scammers increasingly target Medicaid and Medicare to siphon off taxpayer dollars. These schemes often rely on fake billing, kickbacks, and collusion — netting millions at the public's expense. Despite public condemnation from lawmakers, meaningful legislative action has yet to materialize. Much of the fraud is tied to dodgy lawyers, medical practitioners, and medical offices working together to exploit insurers and the system itself.

Staged Auto Accidents

Carrying over from last year's *Judicial Hellholes*® report, staged automobile accidents are driving New York insurance premiums to staggering levels. A new analysis from the New York Civil Justice Institute compared no-fault states — New York, New Jersey, and Massachusetts — and found New York's personal injury protection insurance costs were more than 200% higher than New Jersey and over 500% higher than Massachusetts. With state minimum amounts of coverage required for personal automobiles set so high, New York insurers are especially vulnerable to fraud schemes.

These scams disproportionately target the rideshare market. In January 2025, Uber filed a RICO lawsuit against **Wingate Russotti Shapiro Moses & Halperin**, alleging it conspired with other attorneys and medical providers to inflate medical bills and drain Uber's insurance payouts.

Cases to Watch

- Businesses are starting to fight back. **LM Insurance** and **Allstate** are among the insurers taking aggressive legal action. By August, Allstate had filed 45 RICO lawsuits, while LM Insurance claimed more than $1 million in damages in several of its cases. LM's suits accuse networks of doctors and medical offices of conspiring to submit unnecessary, false, or excessive medical claims relating to auto accidents. Allstate's complaints similarly detail no-fault facilities generating inflated medical bills regardless of patient need, driving up costs on a massive scale.

- **Union Mutual Fire Insurance Co.** has expanded its fraud litigation, filing four new lawsuits in 2025. Among the defendants are **Subin Associates** and **Liakas Law**, both highlighted in last year's report. The complaints allege collusion with medical providers to pad reports and extract inflated payouts. In the *Subin* case, at least 12 individuals reportedly had $25,000–$30,000 each funneled to a medical practice — without their knowledge — through a third-party litigation funding company.

- **GEICO** has filed a major suit under the no-fault system, claiming fraudulent billings of $6.3 million.

- **Liberty Mutual Insurance Corp.** has also gone to court, alleging it was billed for unnecessary — or nonexistent — medical treatments. In one instance, a patient who should have received only minor care after a car accident was instead subjected to invasive trigger point injections, ballooning costs to the insurer.

Construction-Related Fraud

LEGAL BACKGROUND

The Gilded Age of New York City was defined by rapid infrastructural advancements and groundbreaking innovation in architecture and engineering. These developments, which were driven by the challenges of rapid urban expansion, laid the foundation for the city's iconic skyline that we know today. In an attempt to protect the workers who were responsible for constructing these skyscrapers, lawmakers enacted New York's **Scaffold Law**, which imposes a strict liability standard for gravity-related construction accidents. Despite decades of criticism and the fact that the law's excessive liability accounts for about 10% of the state's construction costs, New York is the only state that still maintains such a law.

This outdated standard has opened the door for abuse: some workers stage fake injuries to cash in, while third parties offer litigation loans that lock workers into costly cycles of debt. To strengthen cases, workers are often pushed into undergoing unnecessary and invasive surgeries — all to inflate settlement values. These schemes leave businesses and insurers footing the bill while driving liability costs to unsustainable levels.

Cases to Watch

- **Roosevelt Road RICO Filings:** Roosevelt Road has dramatically expanded its fraud litigation, filing three sweeping RICO lawsuits against **Liakas Law**, **William Schwitzer & Associates**, and **Subin Associates**. The insurer's suits accuse these firms and affiliated medical providers of orchestrating fake construction accidents and requiring unnecessary medical treatments to inflate claims. The company's initial RICO suit, filed in March 2024, alleges that a group of 46 individuals and businesses systematically exploited the New York State Workers' Compensation system and state labor laws.

- **Another complaint, *Roosevelt Road Re, Ltd. v. Hajjar***, alleges that those involved participated in a scheme to submit false or exaggerated injury claims to secure windfall settlements under the Scaffold Law. This scheme reportedly targeted "foreign-born workers who lack proficiency in English," encouraging them to file claims for fabricated or exaggerated injuries. In some cases, the injuries — a simple trip and fall, for example — would be exaggerated on paper into multi-million-dollar permanent disability claims. Videos of the alleged fraudulent falls have even surfaced, featuring workers staging accidents at construction sites, further highlighting the brazen nature of the fraud.

  The impact of this alleged misconduct is staggering. According to the complaint, claims under this scheme have caused liability claim expenses for one reinsurer to balloon from $14 million in 2018 to over $142 million by 2022, exponentially increasing each year.

- **Hillside Hotel LLC:** In a May filing, Hillside accused **Gorayeb & Associates** of conspiring with construction workers, law enforcement, and a medical provider to stage fake accidents. The complaint points to striking similarities with another case in the Eastern District of New York, ***Roosevelt Road Re, Ltd. v. Surgicare of Westside LLC***. Hillside argues that the scheme left them saddled with a **$5 million judgment**, which they contend exists only because of the fraudulent conduct of Gorayeb and others.

Judges Turn a Blind Eye

New York judges play a key role in perpetuating lawsuit abuse by allowing personal injury law firms to withdraw from cases when ethical concerns come to light. For example, in 2024, **Subin Associates** requested to withdraw from 200 to 300 cases because of "ethical concerns" involving its referral source. Attorneys familiar with the litigation say the judges engage in *ex parte* discussions with plaintiffs' counsel, despite a rumored instruction to all sitting judges advising against it.

It appears to be a trend among judges to look the other way when presented with details of these scams, either by allowing firms to withdraw from cases without consequence or by keeping suspicious cases alive until they settle. By continuously granting plaintiff attorneys' requests for orders to show cause, these judges clog the court's dockets, delay legitimate plaintiffs' claims, and cost defendants money. And by allowing plaintiffs' counsel to easily withdraw from these cases without suffering consequences, judges allow the lawsuit abuse to continue ravaging New York's tort system.

Fraudulent Workers Compensation Cases

A May 2025 report from **Goldberg Segalla** highlights the scope of the problem in the workers' compensation context, detailing a dozen recent cases in which fraud was uncovered. In each, the firm demonstrated plaintiff misconduct through questionable medical records, inconsistent testimony, or outright fabricated injuries.

The Role of Third-Party Litigation Financing

The prevalence of third-party financing in these cases creates additional consequences for victims when judges allow withdrawals and dismissals without question. These funders provide plaintiffs with money up front to pay the doctors and lawyers involved in the elaborate schemes. Judges have reportedly allowed lawyers to walk away from cases without consequence, leaving plaintiffs owing thousands of dollars to the lenders.

A recent report by The Perryman Group estimated that New York's economy lost $292.9 million as a result of third-party financed litigation. The harm to business activity leads to over $70 million lost in resources for the state and the loss of thousands of jobs.

Expansive Liability for Tech Companies

Instagram and TikTok Litigation

In June 2025, **Judge Paul A. Goetz** permitted a parent's wrongful death case to move forward against social media platforms TikTok and Instagram after her son died in a viral challenge. The case is based on a novel theory of liability that could significantly expand liability for social media companies.

In the original suit, the plaintiff claimed the social media platforms' algorithms exposed her son to "dangerous content." This "dangerous content," the plaintiff alleges, is what convinced her son to pursue the "subway surfing" challenge that proved fatal in 2023. The challenge requires individuals to climb out onto the outside of subway cars once they are in motion and lay flat when the subway passes through tunnels.

While algorithms are meant to direct favored content to a precise audience, individuals can guide it by choosing different content which then allows the algorithm to respond with similar material. The plaintiff contends that not only did the algorithm target her son with subway surfing content, but that he never sought it out.

Judge Goetz's order dismissed some of the plaintiff's claims, like unjust enrichment and intentional infliction of emotional distress, but maintained the product liability claims of design defect and failure to warn as well as general negligence claims. According to **Judge Goetz**, "Based on the allegations in the complaint, it is plausible that the social media defendants' role exceeded that of neutral assistance in promoting content, and constituted active identification of users who would be most impacted."

Judge Goetz also dismissed the claims against the **Metropolitan Transportation Authority**. The lawsuit claimed that the MTA knew young people were participating in the subway surfing challenge and did nothing to prevent it.

Case to Watch

In re: Kia Hyundai Vehicle Theft Marketing, Sales Practices, and Products Liability Litigation

Kia and Hyundai are facing multi-district litigation (MDL) over the anti-theft technology in their vehicles. While the MDL is located in a federal court in California, the litigation raises a novel issue of New York law that its courts are now considering.

The plaintiffs' theory in this MDL stretches product liability law far beyond its traditional boundaries. Several municipalities argue that Kia and Hyundai should pay costs associated with a wave of auto thefts simply because certain vehicles did not come equipped with anti-theft devices, despite the fact that the cars met all applicable federal and state safety requirements. A Ninth Circuit panel ruled that New York courts had not yet resolved whether manufacturers owe a duty to protect against criminal conduct by third parties — a question that goes to the heart of whether judges can impose an unprecedented duty of care on automakers.

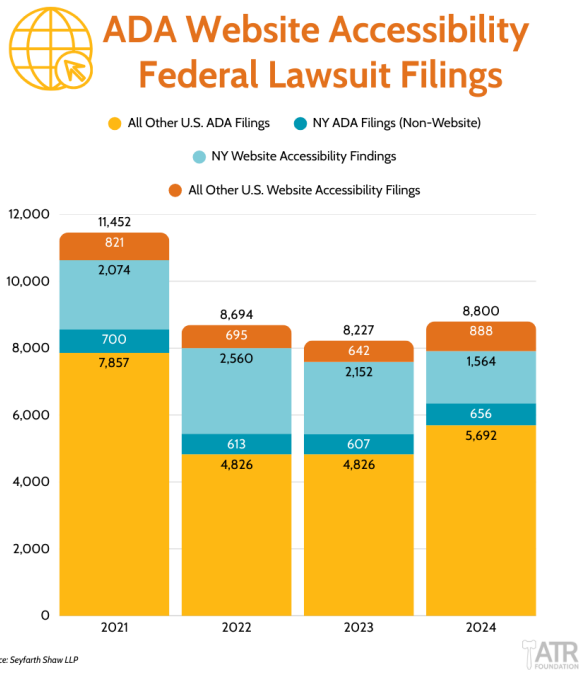
In June 2025, the **U.S. Court of Appeals for the Ninth Circuit** asked New York's highest court to answer the question of whether Kia and Hyundai owe a duty of care to municipalities to incorporate technology into vehicles to make them more difficult for criminals to steal. A dissenting judge rightly noted that federal motor vehicle standards already govern theft-prevention requirements and would have found the novel claim preempted. **The New York Court of Appeals** granted review and heard oral arguments in October 2025.

No Injury? No Problem!

Accessibility Lawsuits

LEGAL BACKGROUND

Plaintiffs' lawyers take advantage of New York's unique set of disability laws. New York is one of just a few states whose state disability laws go far beyond what the federal **Americans with Disabilities Act (ADA)** provides. New York does not require a plaintiff to show that a disability "substantially limits" any major life activities. Plaintiffs may also obtain statutory damages that are unavailable under the federal ADA.



New York led the nation in ADA Title III lawsuits over website accessibility in 2024, with 1,564 filings. Still, that figure represents a 26% decline from 2023, signaling a potential shift in how courts are handling these cases. In total, New York saw 2,220 ADA Title III lawsuits of all kinds in 2024 — second only to California.

Whether this decline reflects genuine improvement or simply judicial fatigue with serial plaintiffs is an open question. Halfway through 2025, New York placed third in the nation for ADA accessibility lawsuits,

behind only California and Florida, but its numbers were significantly down from the prior year. Observers believe law firms that previously filed their lawsuits in New York — facing a more skeptical New York federal bench — are instead taking more cases to Illinois. What is clear is that these suits often target small businesses, which bear the brunt of costly litigation.

Serial Plaintiffs

SERIAL Plaintiffs

Serial plaintiffs and repetitive filings have become so prevalent in New York that even judges are now calling out abuse of the ADA. In ***Dunston***, the court described the case as a "cookie-cutter complaint" resembling those aimed at pressuring small businesses into quick cash settlements that primarily benefit plaintiffs' attorneys. The court underscored this concern by noting that, while the defendant's failure to pay the ordered settlement lacked justification, the plaintiff's decision to pursue only attorney's fees confirmed its suspicions about serial litigation tactics.

Food & Beverage Litigation

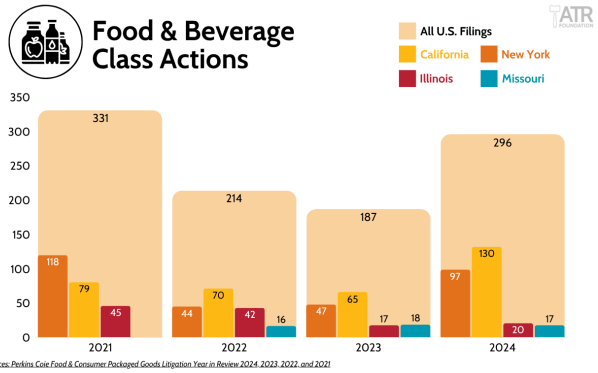
> ***LEGAL BACKGROUND***
> Plaintiffs' lawyers regularly abuse the vague language of New York's consumer protection law (**GBL § 349**), which does not require a plaintiff to demonstrate that the business intentionally misled consumers or that a consumer actually relied on the misrepresentation to her detriment. Although a plaintiff must demonstrate that a practice is "likely to mislead a reasonable consumer acting reasonably under the circumstances," some New York courts have refused to assume that a reasonable consumer reads the product's ingredients.

Food and beverage class action filings skyrocketed 106% from 2023 to 2024 in New York, climbing from 47 to 97 lawsuits — second only to California.

Food and beverage class actions filed in New York courts in 2025 have targeted a wide range of products. Suits include claims that Sazerac misled consumers by selling a beverage resembling Southern Comfort whiskey that contains only whiskey and malt flavoring; that Saraya falsely advertised its monk fruit sweetener as having "zero net carbs" and "zero calories"; that cream cheese isn't a main ingredient in a company's cheesecake; that a cheese-and-cracker snack contains no real cheese; and that Blue Diamond uses a smoked flavoring rather than fire-smoking its almonds.

Infamous plaintiffs' lawyer **Spencer Sheehan** is the most prolific filer of these abusive food and beverage lawsuits. He currently has focused his ire on malic and citric acid, filing several lawsuits over products' inclusion of these ingredients, including lawsuits against Capri-Sun, Snapple, and Sazerac cocktail mixers. Sheehan has previously been sanctioned in New York and Florida for filing frivolous claims, but that has not seemed to slow down his filings.

More citric acid claims have sprung up in New York, this time regarding the 'no artificial flavoring' advertising on a bag of chips. PepsiCo and Frito-Lay now face a class action lawsuit, alleging that consumers have paid too much for Lays Poppables chips.



Sources: Perkins Coie Food & Consumer Packaged Goods Litigation Year in Review 2024, 2023, 2022, and 2021

Nuclear Verdicts® Take a Bite Out of the Big Apple

New Yorks courts are prolific producers of nuclear verdicts®. One of the main drivers of high awards is a New York law, **CPLR 4016(b)**, which allows plaintiffs' lawyers to request that a jury award a specific dollar amount for any element of damages. Plaintiffs' lawyers use this law to engage in a tactic known as "anchoring," in which they place an extremely high figure into the jurors' minds to start as a base dollar amount for a pain and suffering award, which, unlike medical expenses or lost wages, lacks a means of objective measurement. Although New York law confines a plaintiff's recovery to "reasonable compensation," its courts have repeatedly awarded amounts beyond its former *de facto* cap of $10 million for a pain and suffering award.

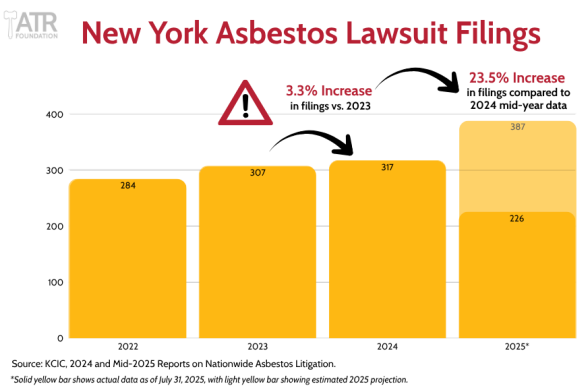
Medical practitioners are becoming increasingly concerned about the prevalence of nuclear verdicts® in medical liability cases. A recent study by the **Doctors Company Group**, conducted across 47 states between December 2024 and January 2025, found that 43% of physicians are concerned about the rise of nuclear verdicts®. The report warns that doctors who practice more conservatively out of fear of such verdicts — what the article terms "defensive medicine" — could drive up healthcare costs by as much as $55 billion annually.

Recent nuclear verdicts® in 2025 include:

- **March 2025:** $10 million in a product liability case
- **May 2025:** $60 million in medical liability case (a record amount for Nassau County)
- **July 2025**: $22.75 million in a trip-and-fall case

New York City Asbestos Litigation

According to KCIC's mid-year report, asbestos lawsuit filings continue to rise in New York City. The 2025 data, current through July 31, shows a sharp 23.5% increase in asbestos filings compared to the same period last year. While Madison and St. Clair counties in Illinois still outpace New York City in total filings, both jurisdictions reported declines from their 2024 mid-year numbers. The drop in Illinois filings was nearly offset by the surge in New York City. Asbestos lawsuit filings in New York City totaled 317 in 2024, marking a 3.3% increase when compared with 2023 and making it the third-most popular jurisdiction in the country for such filings in 2024.



Leading the push in New York City were plaintiff firms **Weitz & Luxenberg** and **Meirowitz & Wassenberg**. KCIC attributes much of the increase to these firms, noting they were responsible for driving up filings across all documented jurisdictions, with increases ranging between 69.3% and 85.7%.

"Reasonableness" of Nuclear Verdicts®

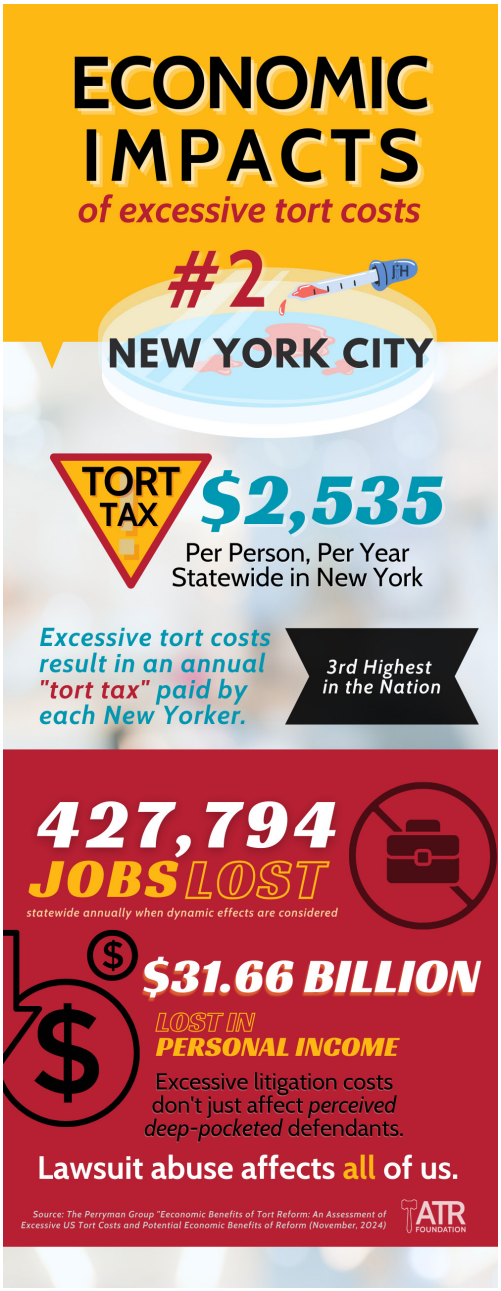
Asbestos litigation can result in nuclear verdicts® and New York appellate courts are hesitant to rein them in.

In March 2025, the **New York Appellate Court for the First Department** upheld a $38 million asbestos verdict, concluding that the award was reasonable and not excessive. The case involved a 66-year-old man who developed lung cancer after decades of smoking, a habit he continued until his diagnosis. Despite his extensive smoking history, the trial court assigned him only 15% of the responsibility. He and his spouse sued the manufacturer, alleging that it knowingly manufactured products containing asbestos.

In May, a couple secured a record-breaking $117 million verdict against a World Trade Center contractor after the husband was diagnosed with terminal cancer caused by asbestos exposure. Of that amount, the plaintiff was awarded $78 million for past and future pain and suffering—the largest individual asbestos verdict in state history. His wife received the remaining $39 million for past and future loss of consortium.

New York Legislature Has Created A 'Lawsuit Inferno'

Rather than address the rampant lawsuit abuse wreaking havoc on the state's civil justice system, New York legislators exacerbate it. In July 2025, the New York legislature was named a '**Lawsuit Inferno**' in a report released by the American Tort Reform Association. New York state lawmakers pursued several problematic pieces of legislation in 2025, including bills that would drastically expand wrongful death liability and significantly increase meritless consumer class action lawsuits.



Emerging Concerns in 2025

- **Corporate Takeovers**
- **Inappropriate Appointment of Receivers over International Entities**

Persistent Problems Worsen

- **Relaxed Causation Standard**
- **Court Increases Jury Verdicts**
- **Routine Imposition of Sanctions**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. South Carolina residents pay a "tort tax" of $886.46 and 40,779 jobs are lost each year according to a recent study by The Perryman Group. If South Carolina enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $4.76 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of South Carolina courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $115.7 million on more than 3.06 million advertisements across television, print, radio, digital platforms and outdoor mediums in the South Carolina market.

SOUTH CAROLINA 2025 - Q1-Q2

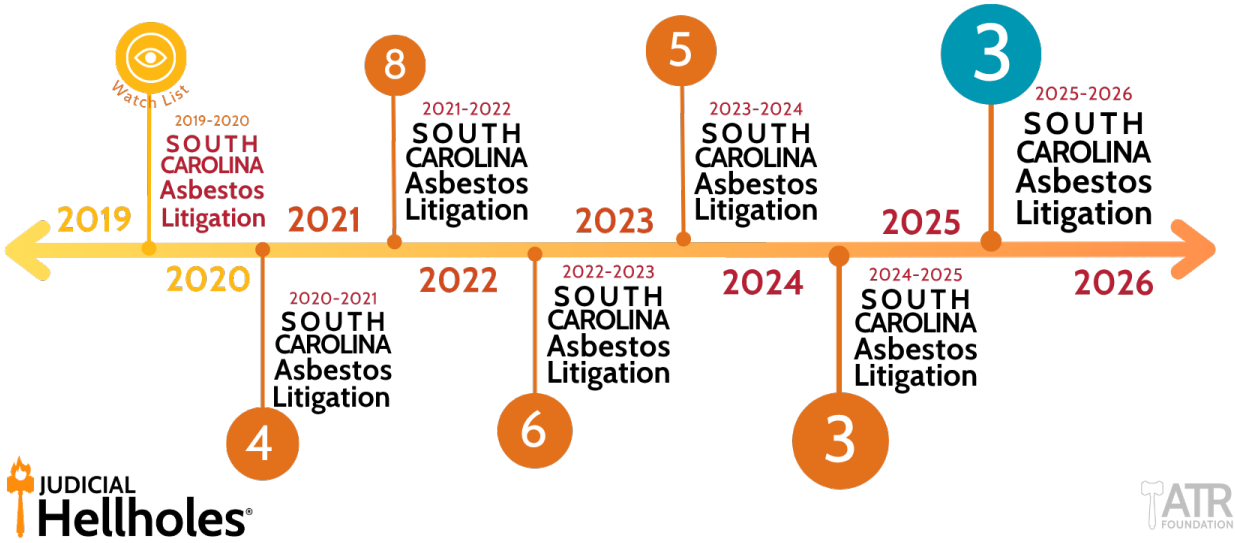
Medium	$	#
Spot TV	$29,522,793	630,779
Print	$13,899	26
Radio	$1,650,312	20,076
Digital	$1,984,985	482,437
Outdoor	$12,512,957	
	$45,684,946	**1,133,318**

There is no place in America where defendants experience a litigation environment that is as unbalanced as the South Carolina asbestos court. Sources say South Carolina had a 300% increase in asbestos case filings from 2024 to 2025—the largest percentage increase in the nation, by far. Not only are South Carolina defendants feeling the pain, but the state court is now exporting its Judicial Hellholes® practices abroad by improperly appointing receivers over foreign entities, extending its overreach beyond U.S. borders.

ASBESTOS LITIGATION

All asbestos litigation in South Carolina is assigned to former **South Carolina Supreme Court Chief Justice Jean Toal**. She was appointed by the state's high court as presiding asbestos judge in 2017. South Carolina's asbestos litigation first landed on the Judicial Hellholes® list in 2020, following years of stability. Over the years, Judge Toal's rulings have become increasingly extreme.

As discussed in past reports, at the prompting of plaintiffs' attorneys, the court has developed a reputation for sanctioning defendants, typically for purported discovery violations, and for imposing punishments that appear disproportionate to the alleged conduct at issue. For example, the court has stripped away defenses, such as by instructing



a jury to presume that a company exposed the plaintiff to asbestos after decades-old records were destroyed in a fire.

South Carolina's asbestos judge has demonstrated a clear bias against corporate defendants, reflected in rulings that lead to unfair trials and excessive verdicts and the frequent appointment of receivers to maximize recoveries from insurers.

The South Carolina Asbestos Court's Corporate Takeovers

In recent months, attention has focused on the asbestos court's extraordinary practice of placing companies in receiverships under the control of an influential personal injury attorney. At first, the court used receiverships over defunct companies to go after their former insurers for money from decades-old policies that may cover asbestos claims. Some have called this the court's "zombie" litigation. Then, the court stretched this approach to include appointing a receiver for solvent, functioning out-of-state and foreign corporations. By making these appointments, the court empowers the receiver to accept service of process for the business, sue insurers and others, or take other actions purportedly on the company's behalf.

The receiver collects settlements and uses that money for anything related to asbestos litigation, including fees for other plaintiffs' lawyers. There is no public accounting of where the collected money goes.

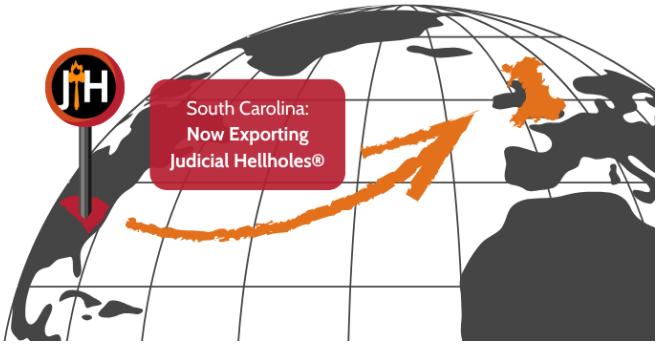
By one count, **Judge Toal** has appointed the same local personal injury lawyer as a receiver at least 24 times over the past seven years. Perhaps "receiver" is an apt title, as he reportedly receives more than 30% of whatever he recovers under this arrangement.

Courts occasionally appoint receivers to protect assets that are in danger of being dissipated before a judgment can be paid. But the South Carolina asbestos court's approach is a radical misuse of the tool. Law professor **Lester Brickman**, who has written extensively on the asbestos litigation, has said, "I am not aware of this procedure having been adopted in any other jurisdiction." Even lawyers representing plaintiffs in South Carolina's asbestos litigation acknowledge that appointing a receiver for a viable company is "unusual."

International Rejection of Receivership Orders

Courts outside of South Carolina have recoiled from the receiver's expansive assertions of power.

For example, **Judge Toal** appointed a receiver over a Quebec mining company, **Asbestos Corporation Limited (ACL)**, empowering the receiver to "assume control of the defense of asbestos claims made against ACL in the United States," including accepting service and hiring counsel on behalf of ACL. The order authorized the receiver to obtain ACL's financial records, investigate and administer ACL's insurance assets, and bring claims on behalf of ACL against insurance carriers or other entities. As a result, both the receiver and ACL's management claimed to speak for the company in its dealings with insurers, leading to confusion, including sanctions on insurers and contractual disputes between the company and its insurers over the insurers' authority to settle asbestos claims. The receiver's actions, according to ACL, "increased liability and damages for ACL, rather than protecting ACL's interests and those of its stakeholders" and "exacerbated" its risk of default judgments. ACL subsequently filed for bankruptcy protection. Months later, in July 2025, a Canadian court found the South Carolina asbestos court's receivership order "astonishing in the eyes of a court rooted in Canadian . . . judicial culture" and found that it had "seriously compromised" ACL's "defense of the lawsuits" filed against it in the United States. Most recently, a bankruptcy court in New York observed in October 2025 that, because of the receiver's actions, ACL's efforts to settle asbestos claims had stalled and the company faced mounting default judgments as it found itself "torn between two masters."



Similarly, the asbestos court appointed a receiver over an English corporation, **Cape Intermediate Holdings Ltd.** In response, the **High Court of Justice Business and Property Courts of England and Wales** entered an injunction prohibiting the receiver from acting or purporting to act for the company. The English court observed that the receiver went to "excessive lengths" to pursue "what he conceives to be his rights and duties" and "does not regard his powers as being confined to South Carolina." The English court found it "quite clear" that a court in South Carolina cannot appoint a receiver over a foreign business that has no presence in South Carolina or anywhere in the United States. The English court noted that the receiver purports to make admissions on behalf of the company that are "positively damaging to the legitimate interests of the company over whose assets he has been appointed, despite the fact that one of his obligations is to act in its proper interests." The court also found that allowing a South Carolina court to act in this manner could have serious consequences for a company, including impacting its finances, interfering with its operations, damaging its reputation, and leading to more lawsuits against the company in South Carolina and worldwide. In fact, the English court ruled that by "purporting to act as an agent of [Cape] without authority recognized in English law" the receiver acted tortiously. The receiver was subsequently ordered by the U.K. court in April 2025 to pay £1 million (about $1.3 million) to reimburse Cape for costs incurred responding to the receiver's attempts to act in the company's name.

Third Circuit Rejects Receiver's Attempt to Displace Company Management

The U.S. Court of Appeals for the Third Circuit recently greeted the receiver's extraordinary powers with similar skepticism. In September 2025, the court rejected the receiver's assertion that the board of directors of former New Jersey talc supplier **Whittaker, Clark & Daniels** could not file for bankruptcy without the receiver's approval. In that instance, the South Carolina asbestos court placed the company in a receivership following a $29 million judgment against it. After the verdict and appointment of the receiver, Whittaker filed for bankruptcy.

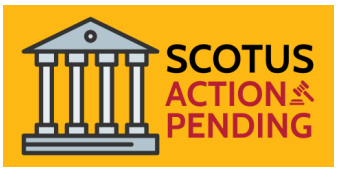
The **Third Circuit** recognized that while courts can appoint receivers for insolvent corporations, "that authority is not without limits." Interpreting the receivership order to block a company's board from filing for bankruptcy would "be an unprecedented exertion of power" over a business whose internal affairs are governed by another state and constitute "a radical intrusion" into that state's sovereignty, the **Third Circuit** ruled.

South Carolina Supreme Court

The **South Carolina Supreme Court** has not proven to be a sufficient check on the state's asbestos court. The state supreme court has recognized that receiverships are supposed to be reserved for "the rarest of cases," when "there is the strongest reason to believe that the plaintiff is entitled to the relief demanded in his complaint, and there is danger that the property will be materially injured before the case can be determined." Yet, in May 2025, the state's high court affirmed the asbestos court's appointment of a receiver over defendant Atlas Turner, even before a judgment against the company, as a sanction for a discovery violation.

The **South Carolina Supreme Court** found that the receivership order went too far in empowering the receiver to not only go after Atlas Turner's insurance assets to compensate the plaintiff, but also to allow the receiver to pursue "any other assets" that could potentially "touch" anyone who might have a claim against the company. The state high court cautioned that a receivership order does not grant the receiver entry into the company's boardroom "or some vague right to 'take over' operations of the company." As a positive step, in June, the **South Carolina Supreme Court** directed the asbestos court to ensure that each of its receivership orders is justified, rule on pending motions to dissolve or clarify receiverships, and submit monthly reports to the high court on its use of receiverships. Thus far, however, those reports do not indicate any course correction.

Will the U.S. Supreme Court Step In?



The **U.S. Supreme Court** is considering a petition for *certiorari* in the ***Atlas Turner*** case. Filed in August 2025, Atlas Turner argues that a state court violates the due process rights of defendants, intrudes on the sovereignty of other nations, and becomes entangled in foreign affairs when it purports to empower a receiver to exert authority over property beyond its territorial limits. ATRA filed an *amicus* brief in the case arguing that the receiver's expansive assertions of power have caused strife for businesses and led to rebukes from courts in the United States and abroad.

Prejudicial Practices

Defendants face prejudicial practices, such as combining unrelated and drastically different cases into a single trial. For example, in one case the court planned to try the wrongful death case of a 70-year-old man who was occupationally exposed to asbestos and died from pleural (lung) mesothelioma alongside the personal injury case of a 20-year-old living woman who was diagnosed with peritoneal (abdominal) mesothelioma, which often is genetic. Consolidating cases for trial in this manner has been shown to significantly increase both a plaintiff's chances of winning at trial and the size of any award as compared to trying the cases separately.

A Relaxed Causation Standard, While Defendants Cannot Show Alternative Causes

The South Carolina asbestos court, with the blessing of the state supreme court, also helps plaintiffs by applying a relaxed causation standard. Plaintiffs' experts in South Carolina are permitted to testify that every exposure to asbestos *contributes* to the development of asbestos-related disease. The cumulative dose theory is an outgrowth of the discredited "each and every exposure" theory, which espouses the view that "every exposure to asbestos above a threshold level is necessarily a substantial factor in the contraction of asbestos-related diseases."

Courts in other states have rejected the "cumulative dose" and "any exposure" theories because they ignore that "[d]ose is the single most important factor to consider in evaluating whether an alleged exposure caused a specific adverse effect." As the **American Tort Reform Association** explained in an amicus brief filed in the **South Carolina Supreme Court**:

> *[T]he widely-rejected every exposure approach [and] cumulative exposure testimony propounded by Plaintiff 's experts…are identical in foundation and application—neither one excludes minor workplace or bystander exposures. By lumping various exposures, regardless of substantiality, under the heading of "cumulative," plaintiff 's experts attempt to transform even the most limited exposure into a legally "substantial" one.*

Given that the deck seems stacked against defendants, going to trial in a South Carolina asbestos case presents a significant risk of a nuclear verdict®. In August 2024, for example, a jury awarded $63.4 million, including $32.6 million in compensatory damages and $30.8 million in punitive damages, to a man who claimed asbestos in baby powder caused his mesothelioma (despite years of working with asbestos-containing brake pads in his father's garage). There have been other massive awards in South Carolina asbestos cases including a $32 million verdict in 2021 and a $29 million verdict in 2023.

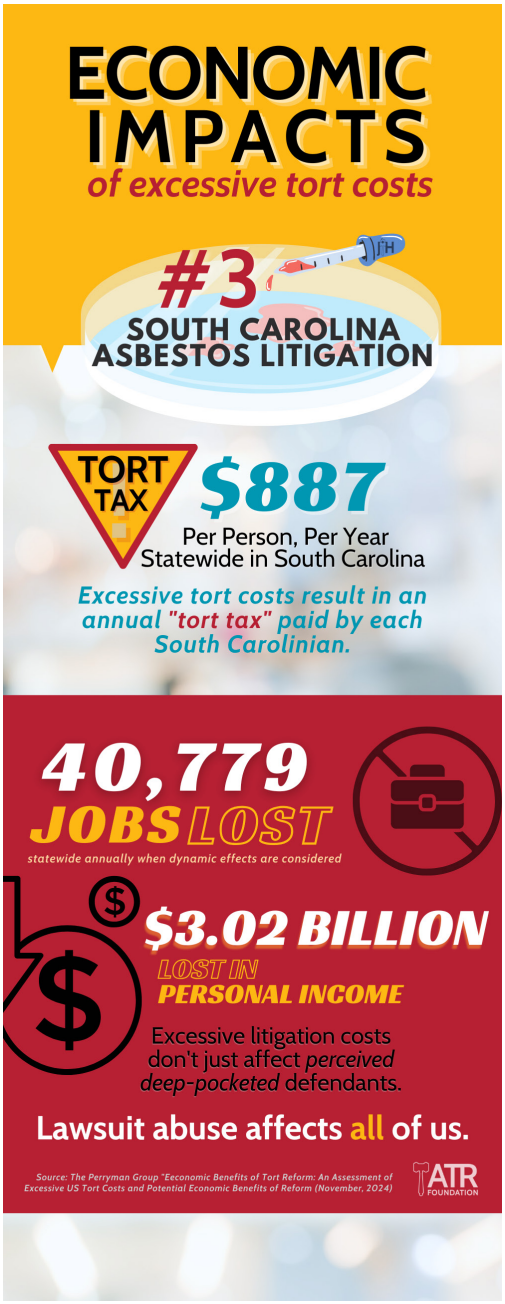
Meanwhile, defendants face obstacles when they attempt to show that something other than their product is the reason the plaintiff developed a medical condition. For example, **Judge Toal** has "repeatedly ruled that plaintiff experts can tell jurors talc was the only possible cause of a person's mesothelioma, while preventing defense experts from even mentioning other possible causes," such as exposure to asbestos from other sources.

A Court That Increases Jury Verdicts

The asbestos court has *increased* jury awards that the court viewed as too low for plaintiffs. For instance, the court increased a jury's award to a plaintiff from $200,000 to $1.58 million and an award to the plaintiff's spouse from $100,000 to $290,000 — a decision the **South Carolina Supreme Court** upheld as within the judge's discretion. After another trial, the asbestos court increased a plaintiff's award from $600,000 to $1 million.

LEGAL BACKGROUND

This practice, known as "additur," is virtually nonexistent in asbestos cases outside of South Carolina. A Lexis+ search of the term "additur" in the **Mealey's Asbestos Litigation Report** database—which reports regularly on rulings in asbestos cases nationwide — returns only two examples of a court outside of South Carolina awarding additur in an asbestos case in over 30 years. Further, additur is rare in non-asbestos cases in South Carolina and nationally. The practice is unconstitutional in the federal courts, and is prohibited in some states. In states allowing the practice, empirical evidence suggests "almost no use of additur."



Even When Defendants Win, They Lose

Defense verdicts are short-lived in the South Carolina asbestos court. In one instance in which a jury was apparently not persuaded that an insulation supplier's product was present at the plaintiff's worksite — even after the court issued an adverse jury instruction — the court found the verdict unsupported by the evidence and ordered a new trial. In another case, after a boilermaker received a defense verdict, the court sanctioned the defendant $300,000, requiring it to pay the plaintiff's attorneys' fees and costs for producing documents, mid-trial, to rebut a new theory sprung during the plaintiff's questioning of a third-party witness.

Another example occurred in October 2024 when the court granted a new trial — one year after a defense verdict — based on alleged "newly discovered evidence" about a talc supplier's distribution of its products. The defendant appealed in June 2025, arguing that the court lacked personal jurisdiction over the company (which has no operations in the state) and that South Carolina law does not permit ordering a new trial for a deficient discovery response, the evidence at issue was not requested, and there was no evidence of "fraud."

In October 2025, Johnson & Johnson obtained another defense verdict in a talc trial in the South Carolina asbestos court, despite a series of rulings that prevented the company from presenting critical evidence. In that instance, the jury did not buy the claim that baby powder caused a man to develop peritoneal mesothelioma. **Judge Toal** reportedly refused to allow a cancer expert to discuss peer-reviewed scientific articles indicating that peritoneal mesothelioma can arise spontaneously and often has no known cause or to allow defense experts to mention the possibility of other sources of the plaintiff's alleged exposure to asbestos. Nevertheless, after two hours of deliberation, the jury returned a defense verdict on October 2. It remains to be seen whether the verdict survives.

A Fair Shake? Unlikely.

It is rare to see any one of these types of rulings in other jurisdictions. Yet, all of them are seen in South Carolina's asbestos litigation. Notably, while these types of rulings occur frequently against defendants, ATRA is aware of no similar rulings against plaintiffs.

In fact, attorneys for South Carolina asbestos defendants report an environment like no other. For example, at a hearing in 2024, the court drastically curtailed the scope of defense expert witness

> ***"Stay away. Get out of cases early, do as little business in the jurisdiction as possible, and drive 500 miles out of the way if need be to avoid being anywhere near the place."***
>
> – Defense attorney Stephen McConnell

opinions and excluded most alternative theories of causation. A defense attorney present at the hearing wrote that the rulings appeared to be driven "not so much by the rules of evidence as by the simple fact that the judge disagreed with the defense experts." He added, "There were several moments when it looked as if the judge would issue a directed verdict in favor of the plaintiff. Why even go through a show trial?" The attorney concluded with this advice to companies: "Stay away. Get out of cases early, do as little business in the jurisdiction as possible, and drive 500 miles out of the way if need be to avoid being anywhere near the place."

End Notes

The spotlight on South Carolina's asbestos litigation has become brighter due to in depth investigative reporting by a leading South Carolina news source. Fits News recently published a five-part series examining South Carolina's asbestos litigation machine, receiverships, pursuit of zombie corporations, political influence in the courtroom, and failed efforts to rein it in. The series concludes, "by the time an asbestos case in South Carolina makes it to trial, its outcome has already been determined by forces far outside the jury box" as "an intimate clique of receivers, judges and politically connected lawyers controls every lever of the docket."

Emerging Concerns in 2025

- **9-figure Nuclear Verdict® in Coastal Litigation**
- **Trial Bar Cozies up to State Leaders**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. Louisiana residents pay a "tort tax" of $1,011.24 and 39,823 jobs are lost each year according to a recent study by The Perryman Group. In New Orleans, the "tort tax" nearly doubles. New Orleans residents pay a "tort tax" of $2,012. If Louisiana enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $4.6 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of Louisiana courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $74 million on more than 1.37 million advertisements across television, print, radio, digital platforms and outdoor mediums in the state.

LOUISIANA 2025 - Q1-Q2

Medium	$	#
Spot TV	$19,121,600	439,513
Print	$13,041	4
Radio	$203,044	
Digital	$407,209	56,232
Outdoor	$9,201,902	
	$28,946,796	**495,749**

The lawsuit abuse long plaguing the Bayou State was thrust into the national spotlight in 2025. The **U.S. Supreme Court** agreed to review whether the state's never-ending coastal litigation belongs in federal or state court. There are over 40 cases pending in state courts that are dripping with political bias and contempt for the defendants. This year the first case went to trial and resulted in an astounding $740 plus million verdict.

The problem starts at the top: the governor has supported the costly coastal litigation that continues to burden the state's economy and workforce and has openly embraced the plaintiffs' lawyers leading the charge. As AG, he stripped the targeted defendant companies of their ability to raise legitimate defenses and while campaigning for governor he promised the trial lawyers they would have "nothing to fear" with him as governor. The burdensome litigation has caught the eye of the White House and a **former U.S. Attorney General** weighed in and urged **Louisiana Attorney General Liz Murrill** to make a course correction.

Coastal Erosion Litigation

The endless coastal erosion litigation, which began in 2013, alleges environmental harm and wrongly traces liability for this problem, for which no single entity or group can be responsible, to a small set of energy producers. But cash-strapped local governments see this as an opportunity to partner with trial attorneys and special interests to initiate legal actions and press courts to hold corporate actors financially liable for damages.

This year, in the first coastal litigation case to go to trial, a **Plaquemines Parish trial court** eliminated causation and expressed sympathy for local interests. This despite the fact that **SLCRMA** requires a direct tie between restoration costs "to the harm actually caused by the defendant's unlawful use." A government witness has testified that many causes contributed to land loss, including "hurricanes, sediment deprivation, sea-level rise, the Army Corps of Engineers' changes to the Mississippi River's flow and natural subsidence."

In the end, plaintiffs were awarded hundreds of millions of dollars in damages despite the absence of any link between the damage and the defendants' conduct. The court's biased decision demonstrates why these cases should be in federal court.

LEGAL BACKGROUND

Oil and gas companies argue that their activities were both lawful under state law and federally supervised. The companies maintain that the lawsuits involve federal questions and should remain in federal court, not the various local state courts where they were filed. Returning the litigation to state court would rob these companies of the opportunity to present a federal defense that arises directly out of their relationship with the government. The companies cite World War II-era directives that demanded producers drill and extract excess oil that was critical to the war effort.

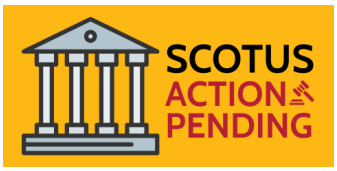
Louisiana passed the **State and Local Coastal Resources Management Act (SLCRMA) of 1978** following Congress's passage of the **Coastal Zone Management Act of 1972.** Under SLCRMA, activities within the coastal zone which "directly and significantly affect coastal waters and which are in need of coastal management" require a "coastal use permit" (CUP), which stipulate conditions that permit holders must adhere to.

Importantly, however, **SLCRMA** grandfathered in certain activities, including energy production at the direction of the federal government in WWII. The law states that "uses legally commenced or established prior to the effective date of the coastal use permit program" do not require a CUP.

First Trial Results in $744M Verdict

Concerns about the state's coastal litigation reached a fever pitch this year with the first of the 40-plus cases going to trial. In April, a Plaquemines Parish jury awarded an eye-popping $744 million to the Parish, finding Chevron (formerly Texaco) companies liable for environmental damages and for the degradation of the state's coastal wetlands. Jury deliberations lasted only four hours and the award included $575 million in compensatory damages for coastal land loss, $161 million in compensatory damages for contamination of the land, and $8.6 million in compensatory damages for abandoned equipment.

Following this verdict, Chevron appealed to the **U.S. Supreme Court**, arguing that Louisiana state court is not the proper venue for this case to be heard. The *Plaquemines Parish* case lays out all the reasons that Louisiana state courts are ill-equipped to handle litigation of this magnitude. The courts are riddled with political bias and favoritism, which will be discussed later in the section. Coastal litigation has enormous implications for the state's energy industry with the potential to saddle energy companies and job creators with billions in damages, as seen in the first case to go to trial, and it is essential that courts take an impartial approach to the litigation. The **U.S. Supreme Court** granted certiorari in June 2025. ATRA has filed an *amicus* brief in the case.

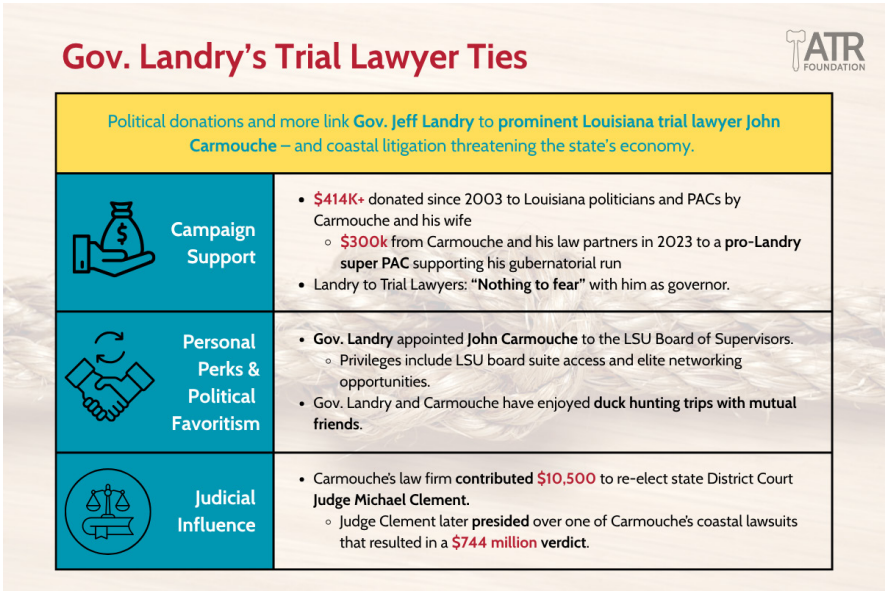


Governor Landry's Ties to the Plaintiffs' Bar

To date, trial lawyer **John Carmouche** — a longtime supporter and donor to Governor Jeff Landry — has filed 43 lawsuits related to coastal litigation on behalf of multiple Louisiana parishes. While campaigning for the governorship, **Landry** promised trial lawyers that they "would have nothing to fear from him as governor."

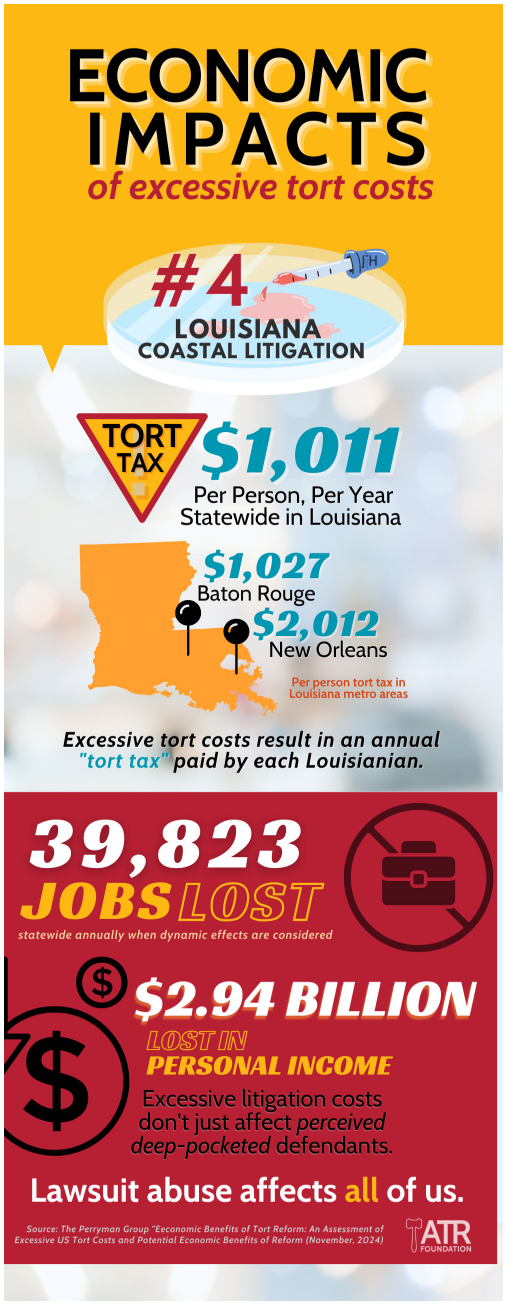
Carmouche and his law partners donated $300,000 to a pro-Landry super PAC to support his candidacy for governor in 2023.

Governor Landry has also benefited from an additional $75,000 in contributions funneled through Carmouche's law firm and its network of allied LLCs and PACs. The firm has long been a force in Louisiana politics, including playing a central role in attacking opponents of former Governor John Bel Edwards, another ally of the plaintiffs' bar.



Governor Landry later rewarded **Carmouche** with an appointment to the prestigious **Louisiana State University Board of Supervisors** — a post that comes with exclusive privileges such as access to the LSU board suite at football games and unique opportunities for business and political networking. As chair of the board's athletics committee, Carmouche leads the board's involvement in the selection of the next LSU football coach.

Beyond politics, **Carmouche** and **Landry** also share personal ties, including duck hunting trips with mutual friends.



Carmouche's political influence extends beyond the governor's office. Recognizing the susceptibility of Louisiana courts to political pressure, his firm and PAC contributed $10,500 to help re-elect state **district court judge Michael Clement. Judge Clement** later presided over the Plaquemines Parish case that produced the astronomical verdict — now on appeal before the U.S. Supreme Court. **The Carmouche Firm**, which is leading the coastal litigation, is using the recent nuclear verdict® as a benchmark, suggesting that "private counsel may seek to recover significant fees in each of these [pending coastal] cases."

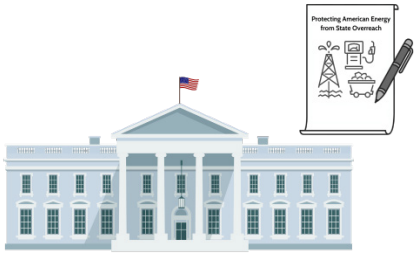
Much of Carmouche's support of Landry came during his time as attorney general. In 2016, **then-AG Landry** agreed to a 2016 common interest and joint prosecution agreement with several parishes, which included a provision that "No party to this Agreement shall at any time expressly or impliedly endorse any substantive defenses or exceptions raised by any defendant in any claims filed by any party to this Agreement under SLCRMA."

Thus, **then-AG Landry** as the chief legal officer of the state, agreed that regardless of whether defenses raised are valid, he will not support them, a position that seemingly violates his ethical duty as a lawyer and his duty to uphold the law of the state. Because of this agreement, any new Attorney General or Parish council member may not take the position that any claim is preempted, barred by immunity, or unconstitutional. This prejudgment is exacerbated by the fact that the Parish's private counsel has a direct financial interest in the outcome of the litigation.

Louisiana Undercuts National Policy

The coastal litigation overlooks historical evidence that many drilling operations followed federal directives, particularly during WWII, when some of these companies produced crude oil to be refined into aviation gasoline to support the U.S.'s military capabilities. In addition, by undercutting the country's pro-energy policies, these lawsuits threaten an industry that has provided jobs for generations of families, powered Louisiana's economy and assisted the nation during times of conflict.

In April 2025, **President Donald Trump** issued an Executive Order "**Protecting American Energy from State Overreach**," castigating states for threatening America's energy dominance by "subject[ing] energy producers to arbitrary or excessive fines through retroactive penalties" cast as damages stemming from costs attributed to climate change.



That month, **former Attorney General Bill Barr** also sent a letter to **Louisiana Attorney General Liz Murrill** expressing concern about the wave of lawsuits filed by the parishes targeting American oil and gas companies. Barr's letter specifically highlights his concern that "the State seems to have largely ceded control of the litigation to the private plaintiffs' lawyers and deferred to their legal positions. While local judges have allowed these cases to continue, plaintiffs' claims are clearly contrary to SLCRMA's explicit terms and devoid of legal merit." Barr went on to say that "[i]gnoring these clearcut limitations, these lawsuits seek to impose ruinous, retroactive liability for oil and gas producers based on decades of activities that were expressly permitted by all relevant federal, state and local authorities and that generated the energy, employment and revenue that once made Louisiana a leading contributor to American prosperity." Finally, the former U.S. attorney general accuses the state of attempting to double dip. He raises concern that state officials already have filed suits against the federal government over this activity "obtaining many billions of dollars in federal funds by attributing coastal erosion to federal activity and natural causes." They now seek to hold the oil and gas companies liable for the same coastal erosion, which "seems flatly incompatible with the position previously taken by the State in attributing that erosion to federal action while obtaining federal funds to address coastal damage." **Barr** urged **Attorney General Murrill** to put the best interests of the state above those of the plaintiffs' bar.

> ***"The State seems to have largely ceded control of the litigation to the private plaintiffs' lawyers and deferred to their legal positions."***
>
> – former U.S. Attorney General Bill Barr

Emerging Concerns in 2025

- **Fraud Alleged in Courts**
- **Complex Litigation Center Attracting New Nationwide Litigation**

Persistent Problems Worsen

- **Nuclear Verdicts® Reach Historic Levels**
- **Courts Allow Forum Shopping**
- **Hotspot for Asbestos Litigation**
- **Expansive Medical Liability**

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Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. Pennsylvania residents pay a "tort tax" of $1,451.24 and 163,115 jobs are lost each year according to a recent study by The Perryman Group. If Pennsylvania enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $18.81 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of Philadelphia courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $76.6 million on more than 634,000 advertisements across television, print, radio, digital platforms and outdoor mediums in the Philadelphia market. Drivers on I-95 approaching Philly are greeted by billboard after billboard of personal injury attorney ads from Morgan & Morgan, Pond Lehocky, "TopDog" and more.

PHILLY 2025 - Q1-Q2

Medium	$	#
Spot TV	$14,339,997	75,598
Print	$717,569	82
Radio	$9,022,709	165,248
Digital	$977,398	1,635
Outdoor	$7,411,667	
	$32,469,340	**242,563**

The City of Brotherly Love's reputation as a Judicial Hellhole® has spread far and wide, drawing plaintiffs' lawyers from across the country eager to file cases there, while prompting defendants to settle at almost any cost to avoid the massive nuclear verdicts® for which the court has become notorious. The **Philadelphia Court of Common Pleas** was home to two of the Top 10 largest corporate verdicts in 2024, including the third-largest product liability verdict — a $2.2 billion award in a case involving Roundup.

2025 did not bring the same level of activity, but this decline is not the result of positive reforms or improved legal activity, but rather a reduction of trials. Critics attribute the slowdown to corporate defendants choosing to settle cases rather than run the risk of being the next poster child for abusive litigation in the state. Whether this lower level of activity will continue remains to be seen, as plaintiffs' lawyers look to take advantage of the **Philadelphia Court of Common Pleas' Complex Litigation Center** with the creation of several new mass

torts. Expansive medical liability also continues to plague the court, and novel theories of liability are being pursued in areas such as climate change and ultra-processed foods.

Fraud Alleged in the Courts

In September 2025, Uber filed a lawsuit under the **Racketeer Influenced and Corrupt Organizations Act** against a Philadelphia plaintiffs' firm, accusing it of conspiring with local healthcare professionals to fabricate and exaggerate plaintiffs' injuries in personal injury cases. In its RICO complaint, Uber outlines extensive alleged abuses by **Simon & Simon**, including the firm's frequent use of one physician who has performed more than 1,200 exams and received $1.5 million in compensation.

According to the complaint, the firm primarily handles "low-value or meritless" cases arising from minor car accidents but inflates them into multi-million dollar suits by manufacturing or exaggerating medical claims. Uber alleges the firm directed doctors to create falsified treatment records and diagnoses to bolster settlement demands, often without the plaintiffs' knowledge, thereby increasing payouts from which the lawyers take a percentage.

The complaint cites emails from **Simon & Simon** to a pain and rehabilitation center that included lists of plaintiffs scheduled for treatment and pre-determined procedures — before any examinations took place. The resulting medical records for plaintiffs allegedly contained identical, boilerplate language crafted to support future litigation.

Nuclear Verdicts®

As noted above, 2025 did not see the outrageous verdicts that were so prevalent in previous years, but the civil justice system still is experiencing shockwaves from the earlier verdicts.

Updates on Previous Record-Breaking Verdicts

Largest Medical Malpractice Verdict in State History Upheld

In July 2025, a **Pennsylvania Superior Court** upheld a $207.6 million award against the University of Pennsylvania Hospital in a case that originated in the **Philadelphia Court of Common Pleas**. The court held that the verdict "did not shock one's sense of justice," despite it being the largest reported medical malpractice verdict in the state's history. The verdict included an award of $80 million for pain and suffering.

At trial, the judge permitted the plaintiff's lawyer to raise improper considerations when speaking to the jury about the potential damage award. The plaintiff's lawyer employed a tactic known as "anchoring," which is where a lawyer plants an extremely high amount into jurors' minds to set a base dollar amount for a pain and suffering award. Here, the lawyer referenced Philadelphia Eagles quarterback Jalen Hurts' $51 million football contract in his closing argument.

$725 Million Verdict Appealed

Exxon has appealed a 2024 $725 million verdict out of the **Philadelphia Court of Common Pleas.** The case involves a claim filed by a New York auto service station mechanic alleging that exposure to benzene caused his development of leukemia.

In this case, the plaintiff handled gasoline and cleaning solvent products with bare hands between 1975 and 1980 and claimed he was exposed to benzene. About 40 years later, in 2019, he was diagnosed with Leukemia and then claimed Exxon hid information about benzene that may have led him to be less careful when handling these products.

Judge Carmella Jacquinto presided over the week-long trial. Ultimately, Exxon was found entirely at fault despite there being 14 co-defendants. The court ordered the company to pay $435 million for past, present and future pain and suffering, $18 million for "embarrassment and humiliation," $253 million for "loss of enjoyment of life," and an additional $18 million for disfigurement. Following the verdict, the presiding judge added $90 million in delay damages, bringing the total to over $800 million.

Exxon has asked for a new trial on the basis that the trial court summarily dismissed allegations that a juror had hidden strong "anticorporate hostility" during jury selection. Following the trial, Exxon also found evidence that one of the jurors posted statements on the juror's social media accounts stating that Exxon is responsible for climate change, Exxon is "objectively a villain," and that the juror wanted to "stick it to the man" by awarding the verdict.

Moreover, Exxon argues that an award of that size is more punitive than compensatory, and goes significantly past making the plaintiff whole, which is the entire point of compensatory damages. This is compounded by the fact that punitive damages are "subject to a higher standard" and "extreme remedies [are] available only in the most exceptional circumstances." When these factors are considered together, they implicate the defendant's due process rights.

Judge Jacquinto previously denied Exxon's motion to dismiss and in June 2025, the company filed an appeal with the Pennsylvania Superior Court.

Update on $1 Billion Mitsubishi Verdict

The **Pennsylvania Superior Court** is considering an appeal of a $1 billion verdict against Mitsubishi. The extraordinary verdict stemmed from a car accident in which the plaintiff, a Bucks County resident, when attempting to pass a vehicle, drove off the side of the road to avoid oncoming traffic, colliding into trees. He would later allege that the seatbelt of his 1992 Mitsubishi 3000 GT failed to adequately restrain him and contributed to his injuries. The jury awarded the plaintiff and his family $180 million in compensatory damages (including $160 million in noneconomic damages) after prevailing on the design defect claim. In the second phase of the trial on punitive damages, the jury awarded an additional $800 million dollars after less than 30 minutes of deliberation. It is the largest crashworthiness verdict ever awarded in the state.

The astronomical result becomes less surprising considering what evidence the court kept from the jury and the court's instructions. The court did not allow the automaker to tell the jury that the seatbelt design met motor vehicle safety standards, even as the plaintiffs' lawyers asserted that the manufacturer had not tested the vehicle. In fact, the court instructed the jury that it should not consider compliance with safety standards when determining liability. The court also neglected to tell the jury that, in a case involving the crashworthiness of a vehicle, a manufacturer is liable only for injuries beyond those that would have otherwise occurred in the accident. Nor did the court tell the jury that a plaintiff, when claiming a product

is defective, must show there was a feasible alternative, safer design that would have avoided the injury. Instead, the court framed the need to show an alternative as optional.

Getting Worse Not Better?

Pennsylvania long has prohibited lawyers from urging jurors to award specific amounts or use mathematical calculations to reach noneconomic damage awards, finding that such tactics "tend to instill in the minds of the jury impressions not founded upon the evidence" and are "of course improper." Research repeatedly confirms that offering such an "anchor" manipulates jurors into reaching far higher verdicts than they would if left to decide based upon their own values and life experiences. It seems some plaintiffs' lawyers have circumvented this restriction, such as by mentioning the salary of a football contract during a closing argument. A bill introduced in the state legislature in September 2025 would do away with the restrictions entirely, allowing personal injury lawyers to urge jurors to return amounts in the tens and hundreds of millions of dollars for pain and suffering.

Medical Liability

Philadelphia — A "Congested Center" for Medical Liability Cases Thanks to Pennsylvania Supreme Court

Pennsylvania Superior Court Judge Alice Beck noted in a March 2025 opinion that Philadelphia has become a "congested center" for medical liability cases with little to no connection to the city. This concerning development has a direct correlation to a problematic decision by the state supreme court.

LEGAL BACKGROUND

In August 2022, the **Supreme Court of Pennsylvania** unilaterally eliminated constraints that prevented lawyers from picking the most plaintiff-friendly jurisdiction for filing medical liability actions. At issue was a 2002 court rule that required plaintiffs' lawyers to file medical liability lawsuits in the county where treatment occurred, not where a jury is expected to view the claim most favorably or return the largest award. The purpose of this rule was to reduce forum shopping and create a more fair and balanced playing field. Excessive medical liability drives up doctors' insurance expenses, increases costs for patients, and reduces the public's access to healthcare.

Due to the Pennsylvania Supreme Court's rule change, attorneys can sue for medical malpractice not only where medical treatment took place, but also any additional location where the healthcare provider operates an office, any additional hospital locations in which the physician provides care, or where a physician lives. Of course, the state's personal injury bar, through the **Pennsylvania Association for Justice,** supported the change.

Plaintiffs now flock to areas like Philadelphia, where juries are more willing to award higher verdicts in favor of plaintiffs. Following the rule change, Philadelphia experienced a surge in malpractice suits the same month, when its court saw triple the number of cases normally filed. As of October 31, 520 medical liability suits have been filed in 2025 in Philadelphia. This is almost double the amount of lawsuits filed in all of 2022 (275), before the rule was struck down.

This litigation onslaught is having detrimental real-life consequences for healthcare in the state. Medical malpractice premiums in Pennsylvania are among the fastest growing in the United States. The **American Medical Association** reports that, in 2024, Pennsylvania was one of states in which medical liability insurance premiums increased by 10% or more. In fact, nearly half of Pennsylvania doctors got hit with a premium increase of 10% or more that year, the second highest percentage of any state. Pennsylvania was one of a handful of states on that list that experienced similar premium increases between 2022 and 2023.

From 2015 to 2024, nearly $2.8 billion was spent on medical malpractice payouts in Pennsylvania. Pennsylvania's payouts per capita during this period were higher than any state except New York.

The increase in costs is driving providers out of the state and impacting access to care. Earlier this year, a hospital maternity unit closed in the state, leaving seven counties in rural north-central Pennsylvania without any labor and delivery care.

The emerging healthcare crisis has caught the attention of some state legislators. In May 2025, the **Pennsylvania Senate Institutional Sustainability and Innovation Committee** held a public hearing where issues of healthcare tort reform and the elimination of medical venue shopping were discussed. The CEO of Penn Highlands stressed the significant problems that rural healthcare facilities face as a result of the combination of venue shopping and the availability of unlimited awards for noneconomic damages. Additionally, the President and CEO of the **Hospital and Healthsystems Association of Pennsylvania** emphasized that, "our hospitals are one lawsuit away from closing their doors."

> *"Our hospitals are one lawsuit away from closing their doors."*
>
> **— President and CEO of the Hospital and Healthsystems Association of Pennsylvania**

A group of members of the Pennsylvania House of Representatives introduced an amendment to incorporate the language of the now-repealed medical liability venue rule, formerly 1006(a.1), into Pennsylvania's state constitution. However, this proposal was blocked and ruled "out of order," which prevented it from being voted on. If this proposal progressed, it would have made it more difficult for the Pennsylvania Supreme Court to make similar changes to the state's venue rule regarding medical liability suits.

Pennsylvania state Sen. Chris Dush introduced **S.B. 125** in September 2025. This bill is a constitutional amendment to allow the legislature to take over venue policy from the Supreme Court. The **Senate State Government Committee**, chaired by **Sen. Dush**, held a hearing on the bill on October 27, 2025.

Forum Shopping — GOOD NEWS!

Pennsylvania healthcare providers are taking steps to protect themselves from abusive forum shopping. In one instance, a Bucks County pain management center inserted a venue-selection clause in a patient contract requiring disputes to be heard in **Bucks County** — rather than Philadelphia. A plaintiff attempted to circumvent the contract provision and filed a malpractice case in Philadelphia. In July 2025, a Pennsylvania appellate court ruled that a venue-selection clause was valid and enforceable. Citing Pennsylvania contract law, the court held that parties may "pre-select" venues and that such clauses supersede procedural venue rules. It rejected the Philadelphia Court of Common Pleas's finding that the clause was unconscionable, noting the patient could have crossed it out before signing and that Bucks County's courthouse was significantly closer to the plaintiff's home than Philadelphia's.

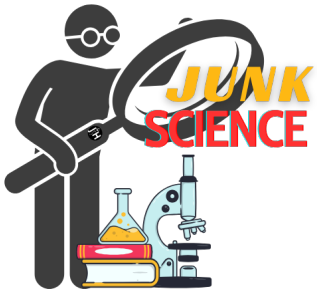
Complex Litigation Center – If You Build It, They Will Come

Roundup Litigation

The Philadelphia Court of Common Pleas remains home to the largest single-plaintiff Roundup verdict in the nation after a jury awarded an astounding $2.25 billion in damages in January 2024. The award included $250 million in compensatory damages and $2 billion in punitive damages. The massive verdict was based on junk science that other courts had excluded and with a jury that reached this extraordinary outcome after only one hour of deliberation. **Judge Susan Schulman** later reduced the award to $404 million, and the decision was appealed in July 2024.

There are more than 400 Roundup cases alleging that exposure to glyphosate in the weedkiller caused plaintiffs to develop non-Hodgkin's lymphoma pending in the **Philadelphia Court of Common Pleas Complex Litigation Center,** as trial lawyers look to capitalize on its plaintiff-friendly reputation.

In addition to the $404 million judgment, several other multi-million dollar awards were upheld on appeal in 2025. These cases all were sparked by the now-infamous study from the **International Agency for Research on Cancer**, which has served as the foundation for the Roundup litigation. This 2015 report — in stark contrast to more than 800 scientific studies as well as analyses by the **U.S. Environmental Protection Agency** and **Health Canada** — concluded that glyphosate is "probably carcinogenic." **ATRF** has written extensively about the problems surrounding the report, including the fact that an "invited specialist," **Christopher Portier,** who had no prior experience working with glyphosate, advised the study while being paid by an anti-pesticide group and law firms suing over glyphosate.



Following Portier's involvement, the final glyphosate study published by IARC was altered in at least 10 ways to either remove or reverse conclusions finding no evidence of carcinogenicity.

In one Philadelphia case that resulted in a $177 million verdict, which was upheld in May 2025, Monsanto was prevented from introducing studies proving that glyphosate is not a carcinogen but plaintiffs were allowed to rely on the controversial IARC study, which is "at odds with the extensive weight of scientific evidence worldwide." The EU has re-approved the use of glyphosate for 10 years, following successful health and safety scientific assessments, and more courts outside of the U.S., including in Australia, have dismissed lawsuits with similar claims, finding that sound scientific evidence does not support a link between glyphosate and cancer.

Paraquat Litigation

Paraquat litigation, designated a mass tort in the **Philadelphia Complex Litigation Center** in 2021, involves claims that the widely used herbicide causes Parkinson's disease. In March 2023, **Judge Abbe Fletman** approved a short-form complaint process, accelerating filings. As of November 18, 2025, over 1,550 Paraquat cases were pending in the CLC, with the first bellwether trial now scheduled for January 2026.

In July 2025, the **Philadelphia CLC** rejected Syngenta and Chevron's motion to dismiss for *forum non conveniens*. The defendants argued that nearly 1,000 non-Pennsylvania plaintiffs could pursue their claims where they live, rather than in Philadelphia. Additionally, the defendants argued that Philadelphia jurors should not have to "bear the burden of jury duty" when these cases lack relevancy or connection to Pennsylvania or Pennsylvania law. Yet, the **CLC** ruled that "the attorneys benefit from the effectiveness and efficiency of Philadelphia's Mass Tort Program," which "clear[s] backlogs of cases not just in Philadelphia but throughout the country."

Lawyer Reprimanded by Court for Interfering in Paraquat MDL Settlement Negotiations

Aimee Wagstaff, who resigned from the plaintiffs' executive committee in the Paraquat multidistrict litigation, appeared before **U.S. District Chief Judge Nancy Rosenstengel** in Illinois to address allegations that she interfered with confidential settlement negotiations in the Paraquat MDL. Wagstaff is representing several clients in similar litigation in the Philadelphia Court of Common Pleas.

At issue was Wagstaff's decision to email several plaintiffs' lawyers on a list associated with an organization called **Women En Masse**. **Judge Rosenstengel** expressed concern that her actions appeared intended to "subvert the MDL settlement process."

Wagstaff maintained that she "never planned to sabotage a pending settlement" and was acting in the best interests of her clients pursuing separate cases in the Philadelphia Court of Common Pleas, which

would be excluded from the federal settlement. Judge Rosenstengel, however, remained unconvinced, stating that Wagstaff seemed to be attempting to "undermine" and "blow up the settlement."

The judge also questioned Wagstaff's plans to discuss details of the confidential settlement and her decision to host a September 18 webinar attended by 263 plaintiffs' lawyers. According to court transcripts, **Khaldoun Baghdadi**, co-lead counsel in the paraquat MDL, said there was "no way to interpret it apart from an effort to gain leverage in the Philadelphia proceedings."

Hair Relaxer Litigation

In May 2025, the **CLC** designated litigation targeting hair relaxing products as a mass tort action, a move that is likely to attract plaintiffs' lawyers from across the country who may prefer to avoid the similar, larger MDL established for federal cases. The litigation alleges that use of these products increases the risk of uterine cancer and can lead to other health problems. As of November 18, 2025, there were 26 cases pending in the CLC, but plaintiffs' lawyers expect that number to increase according to their own websites. They also make it clear that they chose to bring their claims in the CLC based on its plaintiff-friendly reputation and handling of previous mass tort litigation.

> ***"Our lawyers anticipate that number to increase. Philadelphia is an attractive place to bring these claims. Given the volume of mass torts already litigated in Philadelphia, such as those involving Paraquat and Roundup, the city offers a tested and plaintiff-accessible venue with a proven track record of significant outcomes to worthy victims."***
>
> **— Miller & Zois, LLC**

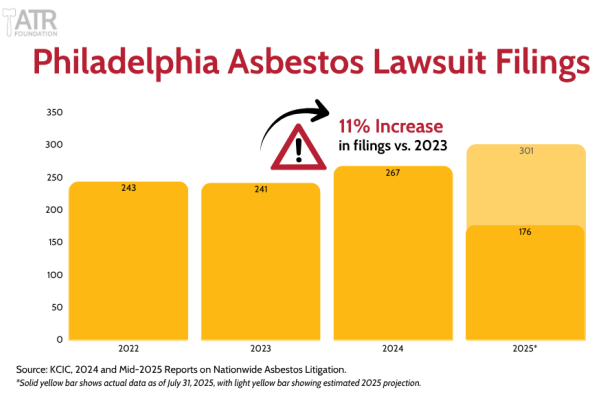
Talcum Powder

This new mass tort designation, created alongside the hair relaxer designation, concerns Johnson & Johnson's baby powder, or shower-to-shower powder, that is alleged to cause ovarian cancer. As of mid-November 2025, there were 177 suits that have been consolidated in Philadelphia, with the first two trial dates set for 2026. A recent KCIC report predicts a 25% increase in talc filings compared to 2024. Given Philadelphia is a preferred jurisdiction by plaintiffs' lawyers for asbestos litigation, it most likely will see a surge in filings.

Philadelphia Remains a Top Hotspot for Asbestos Litigation

ASBESTOS LITIGATION

According to KCIC's 2024 report on asbestos litigation nationwide, Philadelphia was the nation's fourth-most popular jurisdiction for asbestos filings for the fifth consecutive year. The **Philadelphia Court of Common Pleas** saw 267 new asbestos lawsuits in 2024, up 26 cases (11%) from the prior year.



In 2025, through July 31, Philadelphia saw a 57% increase in asbestos lawsuit filings over the same period during the previous year. Notably, lawsuits filed in Philadelphia pinning a person's lung cancer diagnosis to asbestos exposure doubled during this period (48 v. 97). Part of this influx is due to Weitz & Luxemberg's increased activity in the city. The firm's asbestos lawsuit filings increased by 69%.

Climate Homicide Liability

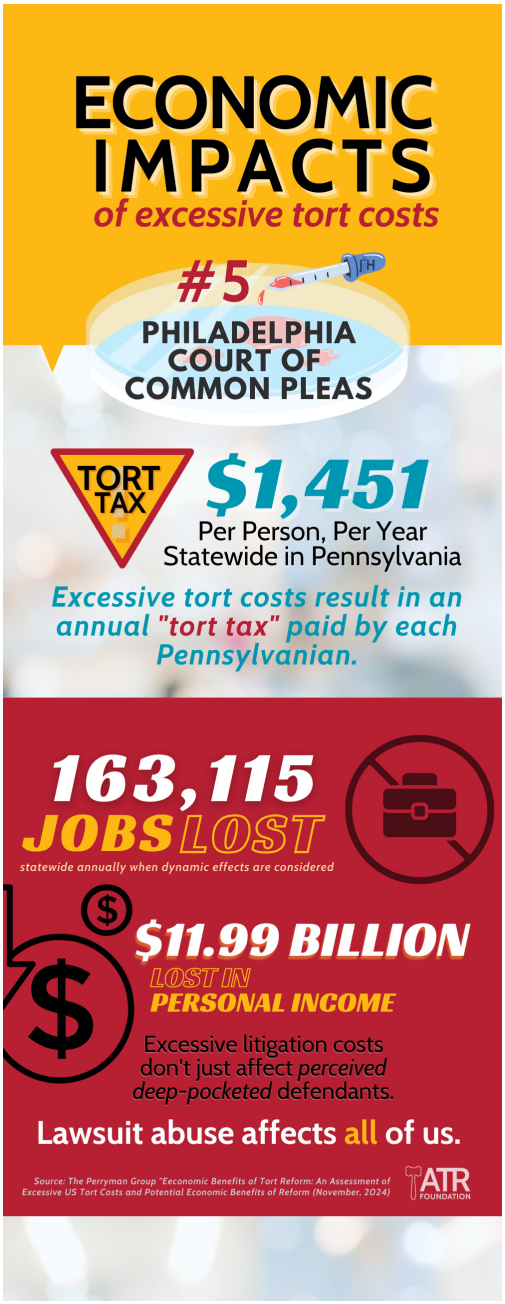
Philadelphia District Attorney Larry Krasner is part of an effort to make the oil and gas industry--and other manufacturers--pay for costs attributed to climate change and hold them responsible for alleged "climate-change deaths." This novel theory of liability, championed by climate change activists, includes exploring potential criminal charges against energy companies. Krasner's office has stated that it is "exploring legal avenues by which we may seek accountability from polluters." The initiative follows a meeting between Krasner's office and **David Arkush**, the director of **Public Citizen's Climate Program**, who has been promoting his legal theory widely, including in a presentation at the University of **Pennsylvania's Carey Law School.**

First-of-Its-Kind Lawsuit Targeting "Ultra-Processed Foods" Filed in Philadelphia Court

Here we go again … one of the nation's most prolific plaintiffs' firms, **Morgan & Morgan**, has set its sights on a new sector of American industry, manufacturers of "ultra-processed foods." In what should come as no surprise, the firm chose the **Philadelphia Court of Common Pleas** to file a first-of-its-kind lawsuit in December 2024 alleging that companies including Kraft Heinz, Coca-Cola, General Mills, Nestlé and others designed and marketed "ultra processed foods" in a way that is addictive to children, leading to a rise in chronic diseases.

The lawsuit was removed to federal court and dismissed over the summer, but the judge left the door open for the plaintiff to amend his complaint, which the plaintiff's lawyers sought to do in September 2025.

In search of their next "golden egg," the plaintiff's lawyers' litigation theory mirrors the tobacco litigation from decades ago and alleges the companies used the same playbook. It seeks to pin the blame for the increased rate of chronic disease and childhood obesity on food manufacturers. In this instance, the plaintiff alleges that he developed Type 2 Diabetes at 16-years-old as a result of consuming "ultra-processed foods" as a child.



"Attempting to classify foods as unhealthy simply because they are processed, or demonizing food by ignoring its full nutrient content, misleads consumers and exacerbates health disparities."

— Sarah Gallo, senior vice president of product policy for Consumer Brands Association

As pointed out by Sarah Gallo, senior vice president of product policy for **Consumer Brands Association**, "There is currently no agreed upon scientific definition of ultra-processed food." Despite a lack of consensus among the scientific community around defining what "ultra-processed foods" are, the plaintiffs' lawyers still generated litigation. Absent scientific consensus, they adopted their own definition to fit their needs. According to the

plaintiff's lawyers, "ultra-processed foods ("UPFs") are industrially produced edible substances that are imitations of food. They consist of former foods that have been fractioned into substances, chemically modified, combined with additives, and then reassembled using industrial techniques such as molding, extrusion and pressurization."

Case to Watch

Bucks County plaintiffs have turned to the Philadelphia Court of Common Pleas to address allegations that Sunoco Pipeline's reckless, negligent, and "irresponsible ownership" of the Twin Oaks–Newark Pipeline caused a "catastrophic environmental disaster" that poisoned their neighborhood.

The Bucks County plaintiffs chose to bring their environmental lawsuit in Philadelphia rather than where they live and where the harm occurred.

Emerging Concerns in 2025

- **Out-of-Town ADA Litigation Targets St. Louis Small Business**

Persistent Problems Worsen

- **Nuclear Verdicts®**
- **Junk Science Fuels Litigation**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. Missouri residents pay an annual "tort tax" of $1,216.48 and 65,028 jobs are lost each year according to a recent study by The Perryman Group. In St. Louis, the numbers are even worse. St. Louis residents pay a "tort tax" of $1,653 each year. If Missouri enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $3.5 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of St. Louis courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $41 million on more than 548,000 advertisements across television, print, radio, digital platforms and outdoor mediums in the St. Louis market.

ST. LOUIS 2025 Q1-Q2

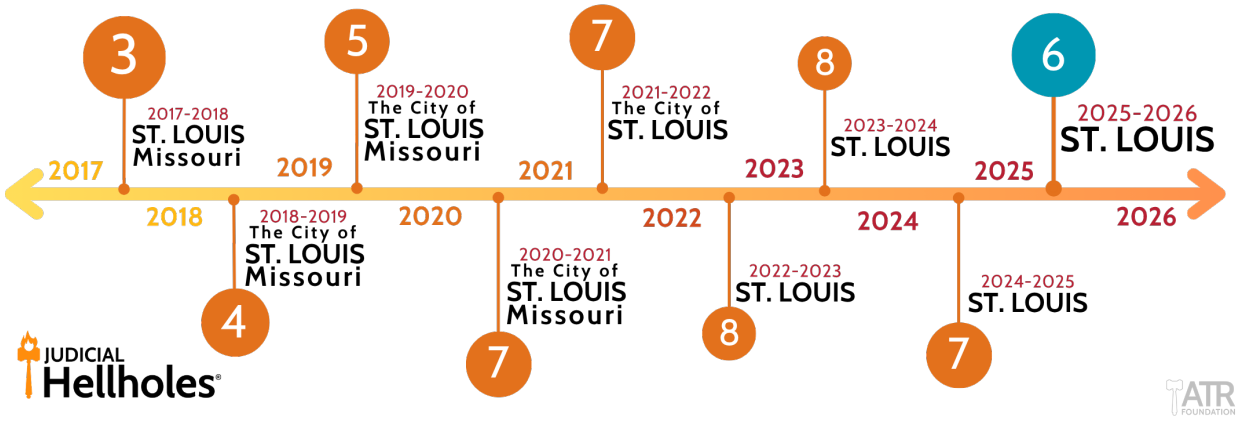
Medium	$	#	% $	% #
Spot TV	$11,257,453	84,743	60.10%	41.64%
Print	$74,022	11	0.40%	0.01%
Radio	$3,312,238	117,508	17.68%	57.74%
Digital	$1,601,456	1,258	8.55%	0.62%
Outdoor	$2,485,791		13.27%	
	$18,730,959	**203,520**		

The Gateway City has become the gateway to lawsuit abuse. St. Louis courts routinely embrace junk science and have become prolific producers of nuclear verdicts®. Trial lawyers flock to the city to file baseless lawsuits including cases targeting manufacturers of lifesaving baby formula for premature infants and cases leveraging junk science in Roundup litigation. An out-of-town lawyer is driving a new wave of claims under the Americans with Disabilities Act and St. Louis courts remain a hotspot for asbestos litigation.

Nuclear Verdicts®

According to a recent study, the **St. Louis Circuit Court** ranked among the Top 6 jurisdictions for the highest combined nuclear verdicts® against businesses. In 2024, the court awarded $957 million dollars in just two verdicts. This is a continuation of a longer trend of massive St. Louis verdicts that dates back at least a decade.

In March 2025, a St. Louis court refused to overturn a $462 million nuclear verdict® against Wabash Trucking Company despite



significant issues at trial. While the court did reduce the overall award to $120 million, the problems persist. The company decided to settle the case in October 2025 rather than roll the dice on an appeal.

The verdict was handed down in September 2024 against Wabash National Corp. following a fatal highway collision. The staggering award included $450 million in punitive damages, an amount the plaintiffs' lawyer urged the jury to award as representing the amount Wabash allegedly saved by manufacturing trailers with faulty guards for over three decades.

The plaintiffs' car rear-ended a big rig that was stopped in traffic and slid underneath its trailer. The plaintiffs' lawyers argued that the car was able to slide underneath the tractor trailer because of a defective Rear Impact Guard (RIG). However, the RIG complied with federal regulatory standards.

The court prevented the jury from hearing crucial evidence including the fact that neither the driver nor passenger wore a seatbelt at the time of the crash. Missouri law recognizes the so-called "seatbelt gag rule," which precludes a jury from hearing such evidence. The unfairness of this law was on full display when the court allowed the plaintiffs' lawyer to argue that the plaintiffs would have survived slamming into a truck at 55 miles per hour had the truck's RIG worked properly; however, the defendants could not rebut this highly questionable assertion by pointing to the fact the occupants were not wearing seatbelts.

The court also prevented the jury from learning that the driver's blood alcohol level was over the legal limit at the time of the accident. The accident occurred in mid-afternoon on a clear and sunny day, so driver impairment could have played a role in causing the crash.

Other Examples in St. Louis

- **March 2025:** Record-breaking $48.1 million medical liability award
- **March 2025:** $25 million product liability award
- **July 2025:** $50 million wrongful death settlement

Junk Science Fuels Litigation

Baby Formula Litigation

Plaintiffs' lawyers have launched a dangerous assault on life-sustaining baby formula as they search for the next litigation jackpot. The litigation claims that prescribed, fortified infant formula increases the risk of a life-threatening intestinal disease in preemies called necrotizing enterocolitis (NEC), pinning the blame for a tragic medical condition on the formula manufacturers. This misguided litigation potentially jeopardizes a critical nutritional lifeline for at-risk infants.

By allowing the plaintiffs' lawyers to pursue these "failure to warn" consumer protection claims, judges are second-guessing the expertise of doctors, nurses

and other health care professionals who have dedicated their careers to protecting some of the most vulnerable people. It must be emphasized that these formulas are not available for over-the-counter purchase by parents and caretakers. They are highly specialized products that are prescribed and administered by health care professionals. Unfortunately, courts have rejected the defendants' use of the learned intermediary doctrine for these products, even though they are prescribed and administered by healthcare professionals in an intensive care hospital setting. This defense doctrine protects manufacturers from liability provided that they have adequately warned the prescribing physician, who can make a recommendation to the patient about use of the product based on the patient's particular health condition and circumstances.

Additionally, the products' labels are regulated by the **Food and Drug Administration.** The FDA does not require warnings about NEC risk because the science simply doesn't support such claims.

The **American Academy of Pediatrics** stated unequivocally in a response to these lawsuits: "Courtrooms are not the best place to determine clinical recommendations for the care of infants." The organization emphasized that special formulas for preterm infants are an essential source of nutrition, prescribed by doctors in neonatal intensive care units.

The **NEC Society** echoed these sentiments and cautioned that recent nuclear verdicts® "may prompt ICUs to reconsider their approaches to feeding neonatal patients, but not necessarily in a way that better protects infants from NEC." The NEC Society's statement continued, "Moreover, such litigation may result in unintended harmful consequences for babies and the elimination of potentially beneficial therapy choices."

Litigation Updates

In March 2025, a St. Louis court ordered a new trial in a case that previously resulted in a verdict in favor of the formula manufacturers. The jury rejected the plaintiffs' lawyers' invitation in that case to award an astounding $6 billion verdict. The judge vacated the defense verdict because, according to the opinion, the defense "intentionally violated the Courts orders and rulings by improperly introducing the inadmissible evidence to the jury, time after time." The case is now before the **Missouri Court of Appeals**.

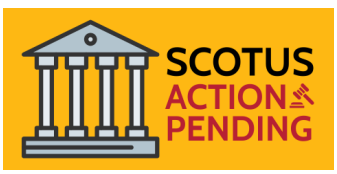
This is a disturbing overreach by the St. Louis judge. The conduct at issue was properly handled at trial and had no bearing on the outcome of the case. Perhaps most troubling is that the St. Louis court inappropriately applied a pro-plaintiff standard to overturn the jury's verdict. The trial court also reversed its own rulings "in hindsight" after the outcome. In response, the companies noted the jury's discretion and its unanimous decision to find the manufacturers not liable.

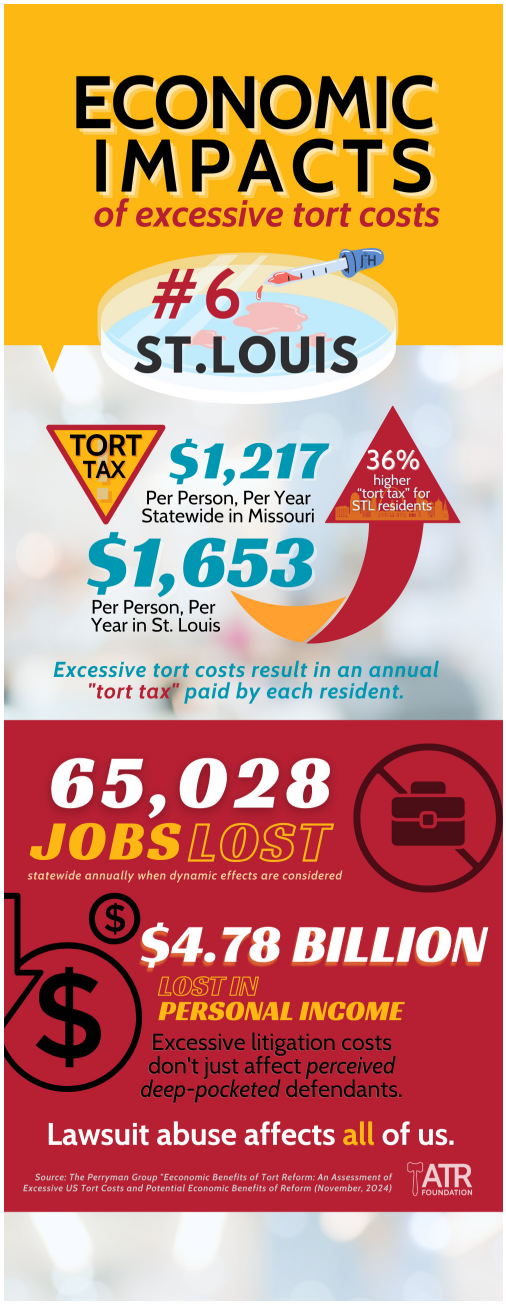
Roundup Litigation

St. Louis has been home to tens of thousands of lawsuits against Monsanto involving its Roundup® weed-killer. These lawsuits allege that the active ingredient in the product, glyphosate, causes non-Hodgkin lymphoma. Despite the Missouri legislature requiring closer scrutiny of proposed expert testimony in 2017 by adopting a standard consistent with federal courts and most other state courts, St. Louis judges have allowed junk science in their courtrooms. Law firms across the country flock to St. Louis to file their lawsuits.

In February 2025, a Missouri appellate court upheld a St. Louis jury's $1.25 million verdict against Monsanto in a Roundup failure-to-warn case. The court agreed with plaintiffs that Roundup bottles should carry cancer warnings, even though federal regulators have not required such labeling. The court held that Missouri's failure-to-warn standards are not preempted by federal law — meaning Monsanto's use of the label that the EPA requires for the product does not shield it from liability under state law.

The case is now pending before the **U.S. Supreme Court,** which has not yet decided whether to grant review. Given the vast scope of Roundup litigation and the central importance of federal preemption, this case warrants the high court's attention. Federal preemption is critical to ensuring uniform labeling standards and preserving the integrity of the regulatory system. Without it, companies face a fractured marketplace where compliance becomes impossible.





Out-of-Town ADA Litigation

Businesses across the St. Louis area are increasingly targeted by Kansas City plaintiffs' lawyers filing waves of lawsuits under the **Americans with Disabilities Act**. Attorneys **Kevin Puckett** and **Gregory Sconzo** have sent demand letters on behalf of serial plaintiffs — many of whom have little or no intention of ever patronizing the businesses they target.

SERIAL Plaintiffs

One such plaintiff, who is legally blind, frequently claims he cannot fully access company websites due to the lack of tools that adjust text size and contrast or read the screen.

In one instance, he sent a demand letter to a sandwich shop more than 200 miles away, even though the restaurant does not offer delivery services and the plaintiff lives over three hours from the location. As of September 18, 69 cookie cutter cases have been filed in 2025 by this serial plaintiff, represented by either Puckett or Sconzo, in Missouri courts alleging nearly identical ADA violations. Missouri is the sixth-most popular state for ADA accessibility lawsuits in 2025.

Adding to the frustration, critics point out that while these lawyers aggressively pursue businesses over ADA's **Web Content Accessibility Guidelines (WCAG)** compliance, their own websites fall short. Automated scans have flagged accessibility issues on their sites, prompting business owners to call out the double standard. As one owner put it: *"It's infuriating.* Despite their strict enforcement of WCAG, their own websites have flagged accessibility issues in automated scans. *It seems like it's not about justice; it's about money."*

End Notes

ASBESTOS LITIGATION

St. Louis is one of the most popular jurisdictions in the country to file asbestos lawsuits. In 2024, St. Louis placed sixth in the nation for the number of asbestos lawsuits filed, 138.

Emerging Concerns in 2025

- **Ground Zero for Harmful Baby Formula Litigation**
- **Legislature Opens the Door to even more Litigation Tourism**

Persistent Problems Worsen

- **No-Injury Lawsuits Fill the Courts' Dockets**
- **Hot Spot for Asbestos Litigation**
- **Nuclear Verdicts®**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars of economic activity annually. Illinois residents pay a "tort tax" of $1,919.28 and 208,411 jobs are lost each year according to a recent study by The Perryman Group. In Chicago, the numbers are even worse. Chicago residents pay a "tort tax" of $2,158 annually due to excessive tort costs, also resulting in a loss of $159,685 jobs per year. If Illinois enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by $24.09 billion.

TRIAL LAWYER ADVERTISING

Plaintiffs' lawyers are well aware of Cook, Madison and St. Clair Counties' courts' propensity for liability-expanding decisions and nuclear verdicts® and spend millions of dollars on advertising. From January 1, 2024 through June 30, 2025, trial lawyers spent an eye-popping $110.42 million on more than one million ads across television, print, radio, digital platforms and outdoor mediums in these three counties. In the Chicago market, they spent $69.46 million on more than 535,000 advertisements.

Residents in St. Clair and Madison Counties were exposed to nearly 549,000 ads with trial lawyers spending $41 million on advertisements across all mediums during the same time period.

CHICAGO 2025 Q1-Q2

Medium	$	#
Spot TV	$13,304,452	62,405
Print	$274,598	33
Radio	$7,441,044	126,542
Digital	$514,660	5,990
Outdoor	$7,208,114	
	$28,742,868	**194,970**

ST. LOUIS* 2025 Q1-Q2

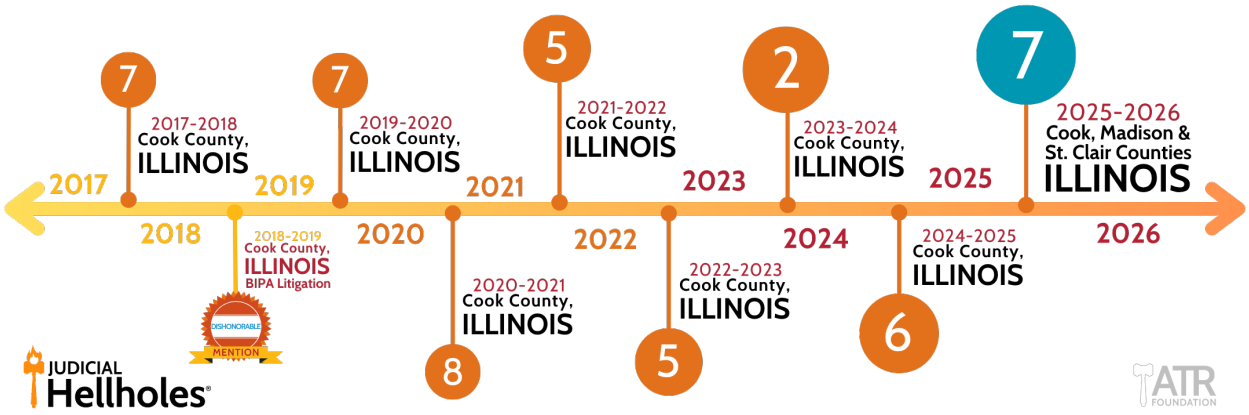
Medium	$	#
Spot TV	$11,257,453	84,743
Print	$74,022	11
Radio	$3,312,238	117,508
Digital	$1,601,456	1,258
Outdoor	$2,485,791	
	$18,730,959	**203,520**

**Comprises Madison & St. Clair Counties*

This year, St. Clair and Madison Counties rejoin Cook County on the Judicial Hellholes® list. This trio of Illinois counties' plaintiff-friendly reputation has made them a magnet for asbestos claims, no-injury cases, and like their neighboring city, fellow Judicial Hellhole® St. Louis, novel baseless litigation against manufacturers of life-preserving baby formula for premature infants.

These three counties are home to a disproportionate amount of the state's nuclear verdicts®, and Cook County most often is the chosen court. Cook County alone saw 161,064 new civil case filings in 2023, while the rest of Illinois — spread across 23 circuit trial courts — recorded 324,247. Cook County's filings accounted for 47% of the state's total civil docket.

A newly enacted law expanding Illinois courts' jurisdiction may open the floodgates to lawsuits from across the nation in these counties, including cases with little real connection to the state.



Baby Formula Litigation

Like the **City of St. Louis**, **Madison** and **St. Clair counties** are home to a wave of litigation that threatens the health and lives of the most vulnerable among us: premature infants relying on life-sustaining baby formula. The litigation claims that prescribed, fortified infant formula increases the risk of a life-threatening intestinal disease in preemies called necrotizing enterocolitis (NEC), pinning the blame for tragic loss on the manufacturers. This misguided litigation potentially jeopardizes a critical nutritional lifeline for at-risk infants.

The products' labels are regulated by the **Food and Drug Administration.** The FDA does not require warnings about NEC risk because the science simply doesn't support such claims.

The **American Academy of Pediatrics** stated unequivocally in a response to these lawsuits: "Courtrooms are not the best place to determine clinical recommendations for the care of infants." The organization emphasized that special formulas for preterm infants are an essential source of nutrition, prescribed by doctors in neonatal intensive care units.

The **NEC Society** echoed these sentiments and cautioned that "such litigation may result in unintended harmful consequences for babies and the elimination of potentially beneficial therapy choices."

Mead Johnson and Abbott have tirelessly argued that Madison and St. Clair counties are not the proper venue for this litigation. Neither company is based in Illinois, and most plaintiffs in the litigation are out-of-state.

> ***"Although the products at issue are sold and used nationwide, well over 90% of these claims filed nationally against Mead Johnson are in Madison and St. Clair Counties."***
>
> – Petition for Leave to Appeal, *Mead Johnson v. Destin Jupiter*, No. 132080 (Ill. filed Sep. 10 2026).

Venue Challenge

In June 2025, the **Fifth District appellate court** dealt a blow to their efforts, finding that thousands of cases could proceed in **Madison County.** The court was satisfied with a Madison County court's finding that the venue was proper, stating Abbott maintained "other offices" in the county because at least two employees worked from home in Madison County. They also found that Mead Johnson did not meet its burden in establishing improper venue because the company did not know how much it earned in sales in the county.

Now, the **Illinois Supreme Court** has been asked to weigh in. Mead Johnson has appealed to the high court after the Fifth District Court allowed additional baby formula cases to proceed in Madison County. The appellate court dismissed Mead Johnson's appeal on procedural grounds, citing a mismatch in case captions among consolidated cases, which it said deprived it of jurisdiction.

Mead Johnson argues the court prioritized form over substance and also challenges the trial court's findings on jurisdiction and venue. The company contends that the court wrongly relied on outdated corporate

filings to establish general jurisdiction, despite Mead Johnson's 2018 relocation from Illinois to Indiana, and that it imposed an unrealistic venue standard given that baby formula sales occur indirectly through wholesalers and retailers.

Legislature Invites Forum Shopping in Illinois Courts

In July 2025, **Governor JB Pritzker** signed into law **S.B. 328**, a bill that will open Illinois courts to even more lawsuits from across the country.

The new law invites plaintiffs' lawyers to sue out-of-state corporations in Illinois on behalf of plaintiffs who live elsewhere. It subjects any corporation that registers to do business in the state to general personal jurisdiction, meaning that, by registering, the company is considered to have consented to being sued for any purpose, including actions unrelated to its conduct in the state. In addition, plaintiffs' lawyers can assert, under the new law, that even companies that have not registered to do business in Illinois are "deemed" to have consented to have lawsuits against them decided in Illinois by pointing to activity the business has conducted in the state.

The new law applies to lawsuits alleging injuries from exposure to any substance that is capable of causing injury. This includes not only the asbestos claims that Illinois is already well known for, but also claims stemming from food, medication, infant formula, and more. Lawyers will undoubtedly file these lawsuits in Cook, Madison, and St. Clair counties because of their plaintiff-friendly reputations.

As lawyers bring more unrelated cases from out of state into Illinois courts, Illinois residents will find it more difficult to have their matters resolved in a timely and efficient manner.

The **Illinois Legislature** was named a **"Lawsuit Inferno"** in a report released by the **American Tort Reform Association** following the passage of this troublesome legislation.

Plaintiffs' Lawyers' Campaign Contributions

Plaintiffs' lawyers are pouring millions of dollars into state political campaigns to preserve Illinois' favorable civil justice environment. From September 2024 through September 2025, the **Illinois Trial Lawyers Association** PAC raised almost $580,000 for statewide races.

No-Injury Lawsuits

Biometric Information Privacy Act

Illinois lawmakers enacted the Biometric Information Privacy Act in 2008, but it lied dormant until 2015 when plaintiffs' lawyers discovered its business potential. **BIPA** provides a private right of action to a person whose fingerprint, voiceprint, hand or facial scan, or similar information is collected, used, sold, disseminated, or stored in a manner that does not meet the law's requirements.

Since 2019, when the **Illinois Supreme Court** ruled that plaintiffs' lawyers could seek BIPA damages on behalf of individuals who had not experienced an actual injury, "more than 1,500 BIPA lawsuits have been filed in Illinois state and federal courts, transforming BIPA into a potent tool for class action attorneys."

LEGAL BACKGROUND

BIPA requires companies to inform an individual in writing and receive a written release prior to obtaining or retaining his or her biometric data. If a company fails to follow this procedure or meet other requirements, then any "aggrieved" person can seek the greater of $1,000 or actual damages for each negligent violation, and the greater of $5,000 or actual damages for each violation they allege was recklessly or intentionally committed.

Enacted in August 2024, **S.B. 2979** limits the number of violations occurring to a single instance, regardless of how many times a business scans or transmits a person's biometric information. That legislation overturned a 2023 **Illinois Supreme Court** ruling finding otherwise, allowing statutory damages to accumulate for every scan. Even with this reform, the liability exposure businesses face under BIPA remains high because, when a class action includes thousands of people, each can seek $1,000 or $5,000 in damages.

The **U.S. Court of Appeals for the Seventh Circuit** is considering a case that will determine whether this legislation applies retroactively to pending cases filed before the enactment date. The key issue is whether a plaintiff may recover damages for a single BIPA violation — such as the general act of fingerprint collection — or for each individual instance in which he clocked in and scanned his fingerprint. The case involves a Union Pacific truck driver who alleges that his employer scanned and retained his fingerprint data without express permission, disclosure, or consent. Originally filed in **Cook County**, the case was removed to federal court under diversity jurisdiction. After that court ruled that the legislation did not apply retroactively, it allowed an immediate appeal to the Seventh Circuit in June 2025.

Unsurprisingly, BIPA litigation continues following the 2024 legislative reform. For example, in March 2025, plaintiffs' lawyers filed a class action in **Cook County** against the popular haircare brand Living Proof, alleging that the company collected and stored users' selfies through its "Hair Quiz" and "Haircare Advisor" tools, which were designed to recommend products based on hair type. In June 2025 in a separate case, an Illinois appellate court upheld a Cook County ruling that certified a class of 800 current and former ITS Technologies & Logistics employees, who claimed their employer used time clocks that scanned handprints in violation of BIPA.

Genetic Information Privacy Act

The Illinois' **Genetic Information Privacy Act**, enacted in 1998, addresses the disclosure and use of an individual's genetic information. It restricts employers from requiring genetic testing as a condition of employment and states that the results of genetic testing cannot be used to affect the terms of employment. It includes a private right of action that allows any "aggrieved person" to collect $2,500 for a negligent violation and $15,000 for a reckless or intentional violation, plus attorneys' fees and litigation expenses, regardless of whether they experienced any actual loss. Given their immense success under BIPA, plaintiffs' lawyers have started exploiting GIPA's broad definition of "genetic information" and the availability of substantial statutory damages to generate lucrative class action lawsuits targeting businesses across the state.

GIPA class action lawsuits filed in 2025 include:

- **January 2025:** Class action filed against Compass Group over pre-employment questions about family medical history (Cook County Circuit Court)
- **March 2025:** Class action filed against MV Transportation Company over pre-employment requirement to divulge family medical history (U.S. District Court for the Northern District of Illinois – covers Cook County)
- **May 2025:** Class action filed against Buffalo Wild Wings over pre-employment questions about private medical histories (Cook County Circuit Court)
- **June 2025:** Class action filed against Abbott Laboratories over on-boarding materials containing questions about family medical history (Northern District Court)
- **August 2025:** Class action lawsuit filed against City of Evanston over pre-employment questions about family medical history (Cook County Circuit Court)

- **October 2025:** Class action filed against CSL Plasma over pre-employment questions about family medical history (U.S. District Court for the Southern District of Illinois – covers Madison and St. Clair Counties)

Food & Beverage Litigation

Illinois ranked in the Top 3 states for the most class action lawsuits against food and beverage makers in 2024, moving up from previous years. The state also ranks third for hosting the most consumer class actions against cosmetic companies. Only fellow Judicial Hellholes® New York and California are home to more of these types of lawsuits.

> ***LEGAL BACKGROUND***
> Illinois is a magnet for these class actions because of its overly broad and malleable consumer protection laws which makes it ripe for abuse. The vast majority of these cases are filed in or transferred from state court to the federal court in the **Northern District of Illinois**, which includes Cook County. Many of these lawsuits seek big payouts for target trivial labeling matters, such as whether Wheat Thin crackers are "100% whole grain."

Some of the suits also come from other problematic counties. For example, one particularly ridiculous lawsuit alleged that a breakfast cereal manufacturer misrepresented the number of servings in its Cocoa Pebbles and Fruity Pebbles cereals, claiming the box had fewer than 15 servings, as labeled. That lawsuit, which was transferred to the Southern District of Illinois from St. Clair County, was brought on behalf of all individuals who purchased the two cereals during a five-year period (Illinois has a particularly long statute of limitations for such claims). After the court denied a motion to dismiss in March 2025, finding that the complaint raised factual issues about whether a reasonable consumer would be misled, the lawsuit was voluntarily dismissed, likely indicating a settlement.

Asbestos

Cook, Madison, and St. Clair Counties remain hotspots for asbestos claims, attracting plaintiffs from across the country due to their favorable litigation environments. Plaintiffs' firms continue to choose this trio of counties as their preferred destinations while defendants bear the burden of fighting what are often unsubstantiated claims. Through July 2025, these three Illinois counties each ranked in the Top 5 courts in the nation for the most asbestos lawsuit filings, accounting for nearly 40% of all asbestos filings nationwide, with Madison and St. Clair Counties topping the list.

In 2024, the trio of counties accounted for more than 47% of all asbestos filings nationwide. **Madison County** was the top jurisdiction, with 882 filings. **St. Clair County** ranked second, with 820 filings — a 22% increase from the prior year. **Cook County** rounded out the Top 5 with 176 filings — a 13.5% increase from 2023. **St. Clair County** is the most popular court in the country by far to file lawsuits claiming that a person's lung cancer resulted from asbestos exposure, rather than other causes. Each asbestos lawsuit filed in St. Clair and Cook County names, on average, 85 to 90 businesses as defendants, a much higher number than most other jurisdictions.

Illinois Supreme Court Extends Time Limit to Bring Asbestos Claims Against Employers

This year, the **Illinois Supreme Court** issued a long-awaited decision in a case that will result in more asbestos litigation and other occupational disease claims. The court held that a 2019 amendment to the **Illinois Workers' Occupational Diseases Act** allows plaintiffs to file claims against their employers outside the workers' compensation system even after the 25-year statute of repose for claims alleging latent injuries has expired. A positive aspect of the decision is that the court recognized that this legislative change cannot

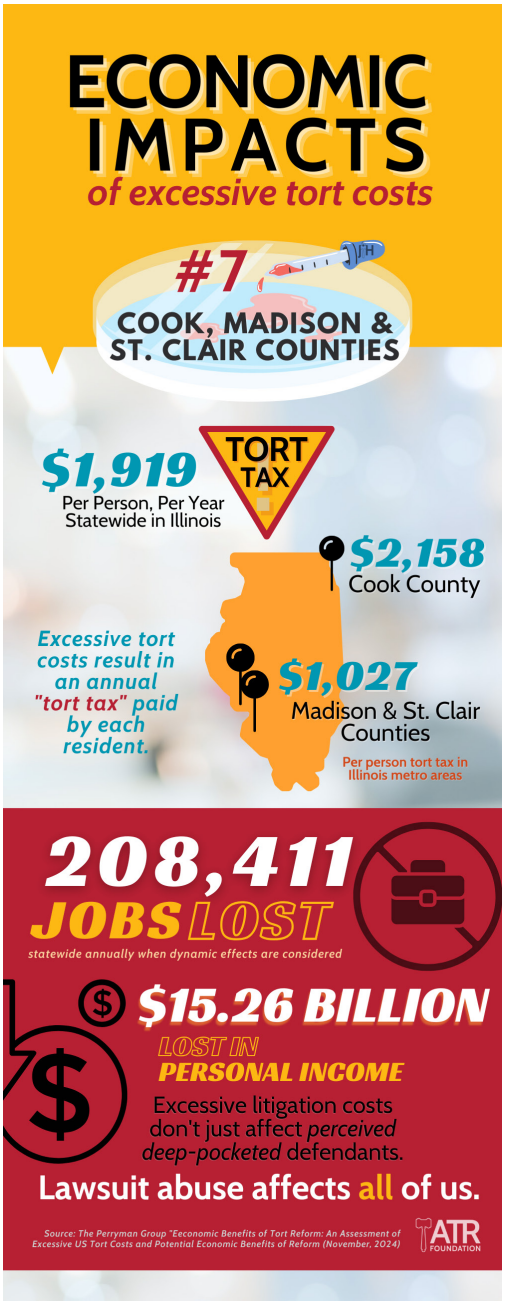
retroactively revive time-barred claims. Nevertheless, as local attorneys have observed, "employers can anticipate a rise in civil lawsuits as employees can now bypass the restrictions imposed by the Act's exclusivity provisions." The ruling will further increase asbestos litigation in places such as Madison, St. Clair, and Cook counties.

Nuclear Verdicts®

Illinois courts have a reputation for producing nuclear verdicts®. Over a ten-year period, in personal injury trials, Illinois courts returned the sixth-most verdicts above $10 million in the country. Illinois also placed in the Top 10 states for nuclear verdicts® in all cases against businesses in 2024. These verdicts are most frequent in Cook County, but also occur in St. Clair and Madison counties. This is one of the factors that attracts plaintiffs' lawyers to the jurisdictions.

For example, in 2024, a St. Clair County trial that blamed specialized formula for a premature infant's health conditions resulted in a $60 million verdict against its manufacturer in the first verdict of its kind. Other recent nuclear verdicts® include:

- **March 2025:** $10.5 million wrongful death verdict in **Cook County**
- **May 2025:** $35 million verdict in auto-accident case in **Madison County**
- **June 2025:** $20.5 million medical liability verdict in **Cook County**



Other Litigation Issues

Climate Change

In February 2024, the **City of Chicago** sued oil and gas companies, claiming that the industry falsely advertised its products as safe and promoted their use while knowing of potentially negative environmental effects. In so doing, the city joined several other state and local governments that are attempting to regulate the energy industry through litigation. Piecemeal litigation in state courts is an inappropriate and ineffective way to tackle climate change, a matter of national and global significance deserving of a coordinated international response. In a disappointing May 2025 decision, the federal court in Northern Illinois granted the city's request to have this national issue decided in the **Cook County Circuit Court,** where it was originally filed, rather than in federal court.

Ethylene Oxide

Cook County hosts novel lawsuits blaming exposure to ethylene oxide (EtO) for cancer.

EtO is a critical chemical used across numerous industries. It serves as a building block in products like antifreeze,

recyclable packaging, fiberglass, personal care items, and some pharmaceuticals. In healthcare, EtO is indispensable for sterilizing medical devices such as pacemakers, catheters, and surgical tools — protecting patients from life-threatening infections. Given its widespread use, the **U.S. Environmental Protection Agency** has detected EtO in ambient air throughout the Chicago region. Reports indicate that "companies in the Chicago area and elsewhere . . . increasingly have been targeted in recent years for lawsuits from trial lawyers seeking big payouts and relying on government reports indicating long exposure to EtO could increase … risk" of developing cancer.

In July 2025, a Round Lake, Illinois resident, who has lived in the community since 1974, filed suit in **Cook County** against Baxter International, alleging that emissions of ethylene oxide from its medical device manufacturing facility caused his prostate cancer. Approximately 15 similar cases have been filed in **Cook County** by plaintiffs claiming various cancers linked to the Round Lake site.

In addition, a Cook County lawsuit in which residents who lived near another medical device sterilization plant blamed Eto emissions for their cancer diagnoses resulted in a $48 million settlement against another company, Steris, this year. Similar lawsuits remain pending against other corporations in the Chicago area.

An International Reputation as Plaintiff-Friendly Jurisdiction

Following a crash of a Boeing 737 at Muan International Airport in South Korea of a flight arriving from Thailand, the estate of a South Korean passenger sued Boeing in **Cook County.** The aircraft experienced engine failure, and the landing gear failed to deploy, resulting in the deaths of 179 passengers, including the decedent. Of all places, the plaintiff chose to bring the lawsuit against Boeing, which is incorporated in Delaware and has its headquarters in Virginia, in Cook County. The case was removed to the **U.S. District Court for the Northern District of Illinois** in September 2025.

Emerging Concerns in 2025

- **State High Court Reinstates Nuclear Verdict and Opens Door to Junk Science**
- **Courts Allow Law-Shopping**
- **Expansive Asbestos Litigation**
- **Home to Novel Climate Change Litigation**

ECONOMIC IMPACT DATA

Lawsuit abuse and excessive tort costs wipe out billions of dollars in economic activity annually. Washington residents pay a "tort tax" of $2,558.19, the second highest amount in the country, and 172,624 jobs are lost each year according to a recent study by The Perryman Group. If Washington enacted specific reforms targeting lawsuit abuse, the state would increase its gross product by almost $20 billion.

TRIAL LAWYER ADVERTISING

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SEATTLE 2025 - Q1-Q2

Medium	$	#
Spot TV	$6,264,215	54,607
Radio	$3,769,721	85,690
Digital	$276,901	46,099
Outdoor	$958,577	
	$11,269,414	**186,396**

A newcomer to the list in 2024, **King County** courts are known for their plaintiff-friendly rulings and liability-expanding approach. The courts have become a hub for novel climate lawsuits and have broadened liability for defendants in asbestos cases. Washington residents are feeling the financial impact — paying the second-highest "tort tax" in the nation. Lawsuit abuse plaguing the court system is creating excessive litigation costs that stifle job creation and hinder economic growth across the state.

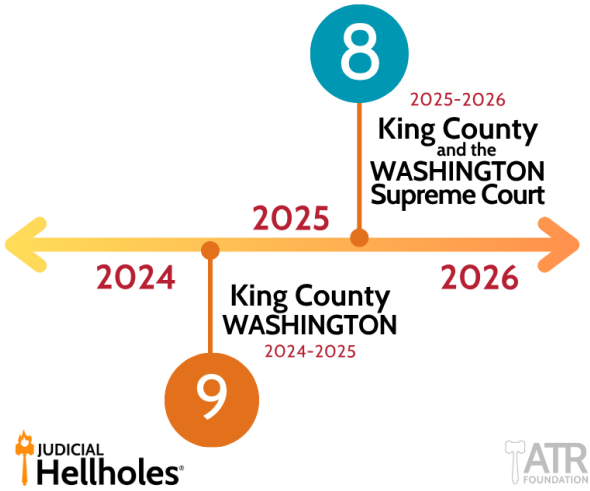
This year, the Judicial Hellholes® designation has expanded to cover the **Washington Supreme Court** after it failed to rein in King County courts and reinstated an outrageous nuclear verdict® in a case riddled with junk science. The high court selectively applied laws of other states to permit damages that typically are not available in Washington courts.

Washington Supreme Court Reinstates King County Nuclear Verdict®

The **Washington Supreme Court** restored a $185 million jury verdict against Monsanto's successor, Pharmacia LLC, in an October 2025 decision.

That ruling reversed an intermediate appellate court, which had vacated the verdict. The massive award stemmed from claims by three public school teachers that polychlorinated biphenyls, or PCBs, from aging fluorescent light fixtures at the Sky Valley Education Center were to blame for a range of health issues they experienced.

Monsanto phased out its production of PCBs about 50 years ago, but the lighting remained in the school buildings, despite information distributed to school districts by the EPA and public health organizations for decades urging their removal. The verdict included $50 million in compensatory damages and $135 million in punitive damages ($45 million to each teacher).



Pick-and-Choose Law Shopping

To reach this extraordinary result, the trial court engaged in blatant "law shopping." Washington's statute of repose for product liability actions generally precludes lawsuits alleging a product is defective more than 12 years after it is delivered. **Washington's Product Liability Act** also does not authorize punitive damage awards. To get around these obstacles, the trial court made the extraordinary finding that Missouri, the state where the manufacturer is headquartered, had a greater interest in lawsuits brought by teachers in King County than Washington, and, for that reason, the court applied aspects of Missouri law that favored the plaintiffs.

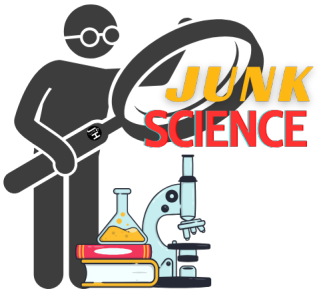
Before the **Washington Supreme Court**, the company's lawyers argued that it had been "subjected to the harshest aspects of each state's regime in this legal Frankenstein that didn't reflect either state's policy."

The Washington Supreme Court's 6-3 majority in ***Erickson v. Pharmacia*** found that, even though the plaintiffs' claims were brought under the **Washington Product Liability Act**, the trial court had properly applied Missouri law to wipe out the defendant's statute of repose defense and allow a punitive damage award.

The court also reinstated the $135 million punitive damage award, even though that award was premised upon a manufacturer having a duty to warn about product hazards that are discovered only after the sale of a product. While that post-sale duty to warn is recognized in Washington, it is not in Missouri (and many other states). Instead, the majority ruled that "the jury was not required to identify the specific theories of liability recognized by Missouri law that supported an award of punitive damages."

In sum, the Washington Supreme Court's decision applied a mishmash of laws to favor the plaintiffs: Washington's product liability law, including its post-sale duty to warn, but not Washington's statute of repose combined with Missouri's punitive damages law.

Junk Science



This decision also spotlights the critical need for courts to enforce rigorous standards for scientific evidence, especially in cases that rely on speculative models to establish causation.

During the trial, an expert witness for the plaintiffs relied on a novel method to estimate historical PCB concentrations at the educational center. Although the intermediate appellate court found that this approach was unreliable, the **Washington Supreme Court** found the trial court properly admitted the testimony.

The expert had used a carpet sample from the school to back-calculate the historic concentration of PCBs in the air. He conceded, however, that no one had conducted this reverse experiment, including any scientist or the EPA. The intermediate appellate court ruled that the trial court should have excluded this testimony because the expert's approach was "novel," "not generally accepted in the scientific community," not used by other scientists, and not supported by "any peer-reviewed literature." Yet, the **Washington Supreme Court** shirked its responsibility to ensure that expert testimony is "generally accepted in the relevant scientific community and capable of producing reliable results," as required by state law. Despite the expert's admission that no one else had used carpet samples to estimate PCBs in the air, the majority agreed with the trial court that it was "generally accepted." The majority also summarily found that the defendant's objections to the testimony went "to the weight of his testimony, not its admissibility," a lax approach that federal courts have rejected.

Dissent

Justice Sheryl Gordon McCloud, joined by two other justices, dissented. The trio concluded that the majority had disregarded a "wealth of evidence" indicating that the legislature intended that the **Washington Product Liability Act** governs all claims bought under it, including issues of repose and punitive damages. Rather, the dissent found that the majority had applied its "policy preferences when there's a state statute right on point." The dissenters rejected "picking and choosing elements from different states' laws" or taking a "smorgasbord approach" that benefits the party picking and choosing.

In a statement to Law360 following the decision, Monsanto indicated that it believes that the court's rulings "unlawfully discriminate against out-of-state companies doing business in Washington" and violate the U.S. Constitution.

Two months before the ruling, Monsanto announced a settlement with other plaintiffs in the Sky Valley Education Center litigation, resolving all but nine related lawsuits. The company faced verdicts totaling more than $1 billion related to the center, following 10 trials combining the claims of 80 people. The October 2025 case was the first appeal to reach the Washington Supreme Court.

Washington Supreme Court Expands Asbestos Liability for Employers

In May 2025, the **Washington Supreme Court** made it easier for plaintiffs to sue employers for work-related latent injuries, overruling precedent.

The case was filed in the King County Superior Court in 2022. The plaintiff, a former aluminum smelter for Alcoa, worked at the company's Wenatchee facility from 1967 to 1997. The personal injury action was brought against several defendants, including Howmet Aerospace, Alcoa's corporate successor, alleging that he developed mesothelioma as a result of asbestos exposure while working for Alcoa.

Typically, individuals who experience work-related injuries can seek recovery through the workers' compensation system and cannot bring lawsuits against their employers. That was the case in Washington, which, in 1911, enacted the **Industrial Insurance Act**. That law, like other workers' compensation laws, was born out of a compromise between workers and employers to create a no-fault compensation system for occupational injuries. In exchange for guaranteed benefits regardless of fault, employees relinquished the right to sue their employers for workplace injuries. The Act, similar to other state laws, provides that employers are not subject to tort liability unless they act with "deliberate intention" to cause a worker's injury.

Under the Washington Supreme Court's previous interpretation of this law, to meet the deliberate-intent requirement and pursue a lawsuit, a worker needed to show that an employer had actual knowledge that an injury was certain to occur.

In ***Cockrum v. C.H. Murphy***, the **Washington Supreme Court** abandoned the need to show this level of certainty, which is intended to place all accidental work-related injuries in the workers' compensa-

tion system. Instead, it ruled that, in cases involving latent diseases, "virtual certainty" is enough. To make this determination, the state high court adopted a multi-factor test that permits judges to consider the employer's knowledge of symptoms associated with a latent disease over time, whether it knew other employees experienced such symptoms, the timing of the symptoms in relation to the plaintiff's exposure, and whether the exposure arises from "a common major cause within the employer's control." The court emphasized that this is a "nonexclusive set of factors," giving trial courts significant discretion to determine whether a tort claim can proceed.

While the court indicated that the "virtual certainty" test is different than negligence, its open-ended, factor-based approach certainly seems like it. In fact, as a personal injury law firm that specializes in asbestos claims observed, it can now file lawsuits and simply allege that the employer "should've known that harm would likely occur" rather than show it intended to cause harm. Following the case, Washington employers are bracing for more lawsuits.

Case to Watch: "Climate Homicide" – A Novel Theory of Liability

Case to WATCH

Earlier this year, plaintiffs' lawyers filed a novel wrongful death lawsuit in **King County** accusing major oil and gas corporations of knowingly "perpetuating atmospheric changes" that would lead to "more frequent and destructive weather disasters and foreseeable loss of human life."

The lawsuit alleges that the defendants continued their business operations despite knowing their marketing of fossil fuel products and services would "claim lives." It further claims the companies engaged in a "multi-decade campaign of deception" designed to mislead consumers and the public about the impacts of fossil fuels, greenhouse gas emissions, and climate change.

Brought under theories of wrongful death, failure to warn, and public nuisance, this "first-of-its-kind" case arises from the death of a woman during the 2021 Pacific Northwest "heat dome," a record-breaking heat wave. The decedent's daughter, serving as the plaintiff, contends that the defendants' conduct both generally contributed to climate change and specifically to the heat dome event.

The plaintiff seeks a variety of damages and relief including a "public education campaign to rectify Defendants' decades of misinformation."

The Watch List

The Judicial Hellholes® report calls attention to several additional jurisdictions that bear watching. These jurisdictions may be moving closer to or further away from a designation as a Judicial Hellhole®, and they are ranked accordingly.

TRIO OF GEORGIA COUNTIES

In the 2024 report, ATRF expressed optimism that 2025 would be a watershed moment for Georgia's civil justice system following Governor Brian Kemp's prioritization of reforms. The state has been a perennial Judicial Hellhole® since 2019, including a two-year stint atop the list in 2022 and 2023.

Governor Kemp came through with his promise, and the legislature delivered a landmark package of legal reform to address some of the longstanding issues plaguing the state's abusive civil justice environment. In April, **Governor Kemp** signed **S.B. 68** and **S.B. 69** into law. These measures should have a positive impact but the onus is now on the courts across the state to follow them and implement them in their cases.

The ATRF is closely watching a trio of Georgia county courts that have been particularly problematic in recent years. Judges in **Gwinnett**, **Fulton** and **Cobb counties** must restore fairness and level the playing fields to ensure plaintiffs' lawyers aren't exploiting the system for their own financial benefit.

2025 Landmark Reforms

S.B. 68

S.B. 68 puts into effect immediately reforms addressing problematic "phantom" damage awards and "jury anchoring" as well as empowering juries with critical evidence regarding seat belt use in cases involving vehicle crashes.

"Phantom" damages are awards based on inflated medical bill amounts or "chargemaster" rates that neither a patient nor an insurer pays. Georgia courts often base awards on these list prices rather than real payments. Jury anchoring is a practice in which lawyers suggest an unreasonably large award, typically for a pain and suffering award, which becomes an "anchor" point in jurors' minds. Both are driving factors behind the surge in nuclear verdicts® in the state highlighted in previous reports.

This comprehensive law also addresses the expansion of premises liability in Georgia that has left businesses responsible for criminal acts committed by third parties on or near their property — even if they had no way to predict or prevent such acts. These practices lead to higher litigation costs across the board and disproportionately impacted businesses operating in dangerous neighborhoods.

The 2025 law also includes several changes to court procedures that are intended to increase the fairness of civil trials. These include providing a more efficient process for seeking dismissal of a claim, having juries decide liability separately from damages, and allowing juries to consider whether a plaintiff was wearing a seatbelt when deciding auto accident cases.

S.B. 69

S.B. 69 addresses third-party litigation financing and will go into effect January 1, 2026. The legislation is a major step toward restoring transparency and integrity in Georgia's courts. Unbound lawsuit lending leads to unreasonable settlement demands, and lengthier, more costly litigation. In addition, Georgia previously did not require companies that provide lawsuit loans, or who otherwise invest in litigation to disclose

their involvement. Lack of funding transparency permits predatory financing companies or lenders who act unethically to operate without any regulatory oversight. The 2025 law requires litigation funders to register with the Department of Banking and Finances, prohibits funders from controlling litigation and engaging in other unethical practices, limits how much a funder can take of a plaintiffs' recovery, and subjects such arrangements to disclosure through the discovery process, among other safeguards.

Trio of Problematic Counties

Following enactment of these reforms, ATRF is closely monitoring courts in Cobb, Fulton, and Gwinnett Counties to ensure judges are making measurable progress toward restoring fairness and balance in their civil justice systems. These jurisdictions have historically produced nuclear verdicts and liability-expanding rulings that pose ongoing concerns for the state. In 2025, we saw more of the same.

Cobb County

$2 BILLION VERDICT ON APPEAL

In March 2025, a Cobb County jury ordered Bayer, the parent company of Monsanto, to pay nearly $2.1 billion to a man alleging his cancer was caused by exposure to Roundup, Monsanto's widely used weed killer. The award included $65 million in compensatory damages and $2 billion in punitive damages — one of the largest verdicts in a Roundup-related case to date.

On April 25, Bayer moved for a new trial, citing significant judicial errors, including:

- **Exclusion of Key Evidence of Alternate Exposures** – Monsanto was barred from introducing evidence that the plaintiff never actually used Roundup, including Home Depot receipts showing he purchased a different herbicide and testimony from his ex-wife that she never saw him use Roundup. The company argued this exclusion allowed the plaintiff to testify falsely that he used no other herbicides, enabling his expert to claim Monsanto's product was the sole cause of his cancer.
- **One-Sided Use of Legal and Scientific Authority** – The court allowed the plaintiff to rely on foreign decisions and Ninth Circuit case law but barred Monsanto from introducing similar evidence. Monsanto also was prohibited from presenting evidence of international public health agencies' findings that glyphosate is not carcinogenic, even though the plaintiff's case relied heavily on the International Agency for Research on Cancer's (IARC) contrary conclusion.
- **Unconstitutional and Excessive Punitive Damages** – Monsanto argued the $2 billion punitive award is unconstitutional because it is cumulative of approximately $100 million it has already paid for the same conduct and punishes lawful out-of-state conduct. The company also emphasized the disproportionate ratio between damages and actual economic loss: the $65 million compensatory award is roughly 145 times the plaintiff's stipulated medical bills of $450,000, while punitive damages are more than 30 times the compensatory amount. Monsanto contends that plaintiff's counsel improperly anchored the jury to high dollar figures, suggested damages based on the company's net worth, and referenced worldwide sales figures unrelated to the claims, in violation of Georgia law designed to prevent bias against large corporations.

COURT TO DECIDE WHETHER TO APPLY STATUTORY LIMIT ON NONECONOMIC DAMAGES

In a July 1 opinion, the **Georgia Appeals Court** held that the **Cobb County** court erred in relying on a 2010 Georgia Supreme Court decision (*Nestlehutt*) to deny a defendant's request to reduce a damages award to $350,000 — the maximum amount set by Georgia law for noneconomic damages in medical malpractice actions. ***Nestlehutt***, a 2010 decision, struck down this limit as violating a plaintiff's right to a jury trial, but that ruling was recently narrowed by the state's highest court in ***Medical Center of Central Georgia v. Turner***.

In ***Turner***, the court held that *Nestlehutt* applies only to medical liability claims and does not address the constitutionality of the limit when applied to wrongful death claims and damages for the "full value of the life" available in such statutory actions. In light of this precedent, the Appeals Court remanded the case for the trial court to determine whether the statutory limit should apply.

Fulton County

GEORGIA SUPREME COURT TO REVIEW EXPANSIVE PREMISES LIABILITY RULING

The **Georgia Supreme Court** has agreed to review a **Fulton County** wrongful death verdict that awarded $32.5 million to the parents of a college student who tragically died in a single-vehicle car accident. The 21-year-old college student was killed when he struck an ornamental planter off the side of the road, which the family's attorney suggested might have occurred to avoid a deer. The **City of Milton** was found to have maintained a "dangerous public nuisance" by leaving the planter in place. The planter was over 6 feet from the road – not in the right-of-way – and had been located there for decades without incident.

The Court will consider whether the "design and placement of objects" on a roadway shoulder is a ministerial duty reserved to a municipality or whether this is a governmental function. The Court also will decide whether planters placed on roadway shoulders are defects in public roads and will seek to clarify what the plaintiff's burden of proof is in establishing whether the municipality violated its "ministerial duty" and whether the city is subject to immunity.

About 60 Georgia cities and other organizations have joined Milton in urging the Georgia Supreme Court to overturn the award due to severe consequences that this expansive liability would have for every city in the state. They note that liability exposure recognized in that case could easily apply to numerous other fixed objects on the shoulder of the road, such as utility poles, traffic control boxes and monuments, and benches. Meanwhile, post-judgment interest in Georgia accumulates at a rate of 11%, making Milton's liability rise by about $10,000 per day while it appeals. Since the city's insurance only covers $2 million of exposure, the city and taxpayers are reportedly on the hook for the remainder of the award.

The **Georgia Supreme Court** heard oral arguments in October 2025 and a decision is expected in spring of 2026.

GEORGIA APPELLATE COURT UPHOLDS LARGEST EMERGENCY ROOM MALPRACTICE VERDICT IN STATE'S HISTORY

In **March 2025**, the **Georgia Court of Appeals** upheld a $75 million verdict against an emergency physician and radiologist, stemming from their failure to promptly diagnose a patient with a stroke. A Fulton County jury awarded the plaintiff, who was left with "locked-in syndrome," $46 million in damages for pain and suffering, in addition to $29 million for medical expenses. According to the plaintiff's lawyers, "the award is believed to be the largest emergency room malpractice verdict in Georgia history." The **Georgia Supreme Court** denied review of the case in June 2025.

Gwinnett County

NUCLEAR VERDICT® AWARDED IN ETHYLENE OXIDE CASE

As discussed in the Illinois section of this report, plaintiffs' lawyers increasingly are bringing lawsuits blaming their client's cancer diagnoses on ethylene oxide emissions from medical sterilization facilities. One of those cases recently resulted in a nuclear verdict® in Gwinnett County.

In that case, the court awarded a retired truck driver $20 million in compensatory damages in May 2025 after his lawyers alleged that emissions from C.R. Bard's medical sterilization facility, which has operated in Covington for more than 50 years, caused him to develop non-Hodgkin's lymphoma. Living just over a mile from the plant, the plaintiff claimed Bard failed to protect the community from the risks of ethylene

oxide exposure and sued on negligence and public nuisance grounds. The company argued that his cancer was naturally occurring and not medically attributable to his low exposure to ethylene oxide. The court, however, rejected an additional $50 million punitive award in that case after a polled juror dissented from a determination that the company intended to cause harm. The compensatory damage award stands after the mistrial, and the punitive damages proceedings are expected to be retried.

Hundreds of similar lawsuits against Bard remain pending in Georgia.

MEDICAL LIABILITY NUCLEAR VERDICTS®

Gwinnett County is also known for nuclear verdicts® against healthcare providers. Examples include verdicts of $15.5 million and $18.3 million this year.

GEORGIA SUPREME COURT RESTORES SANITY TO "NOMINAL DAMAGES"

The dictionary defines "nominal" as an amount that is minimal or insignificant. Similarly, a law dictionary defines "nominal damages" as the award of a "trifling" sum when a plaintiff has established violation of a legal right but not presented evidence supporting a financial loss. In Georgia, however, some courts had allowed juries to award large amounts as "nominal damages." Fortunately, this year, the **Georgia Supreme Court** curbed this practice in Gwinnett County case.

In that case, a Walmart employee, who was walking backward while pulling a box on a pallet jack, bumped into the plaintiff as she sat in a motorized shopping cart. The impact was "very light, not harsh at all." The plaintiff declined medical assistance when Walmart employees asked if she needed paramedics; however, she went to the emergency room in the evening for head pain and blurred vision. "According to the treating physician at the emergency room, a head CT scan showed no sign of injury, and he found no signs of concussion." Nevertheless, during his closing argument, the plaintiff's attorney requested more than $5.5 million in damages for his client's future medical expenses and pain and suffering. The jury awarded "nominal damages" in the eye-popping amount of $1 million. Walmart appealed, arguing that $1 million in nominal damages "was excessive as a matter of law and not a legal award of nominal damages."

The **Court of Appeals** affirmed the startling award. The court relied on the "test of relativity," as opposed to limiting nominal damages to a "trivial sum." In practice, this approach allows nominal damages in any amount. The court reasoned that the $1 million award was not excessive because it was "less than one-fifth the amount requested by the plaintiff."

In June 2025, the **Georgia Supreme Court** vacated the $1 million nominal damage award. The Court reasoned that nominal damages are reserved for "trivial sums" where the plaintiff has established an invasion of a legal right but has not proven entitlement to actual damages in any amount, with enough certainty. The court concluded that "a million dollars is not a trivial sum by any rational measure."

The decision is important because it will require personal injury attorneys in Georgia who seek substantial awards for their clients to present evidence — such as medical records and expert testimony — demonstrating actual losses.

End Notes

Georgia courts are among those experiencing a surge of lawsuits claiming that years of using hair relaxer products causes various health problems. Hundreds of such cases have been filed in recent months, many of which have been filed in **DeKalb** and **Chatham** counties. An October 2025 **Georgia Supreme Court** ruling is likely to result in even more of these questionable suits.

Georgia law has a statute of repose requiring product liability claims to be brought within 10 years of when the product is first sold or used. In the Georgia Supreme Court case, the plaintiff had used hair relaxers from 1995 to 2014. The lawsuit claims that long-term exposure to endocrine-disrupting chemicals in the products caused her uterine fibroids, diagnosed in 2018. She did not sue until 2022, after she (and others) learned of a study loosely linking such products to a higher risk of developing uterine cancer.

The trial court denied dismissal of the suit in 2023, finding the statute of repose did not begin to run until 2014 because the plaintiff was exposed to a "new product" every time she applied the hair relaxer. An intermediate appellate court, however, found the period to file a lawsuit begins with the first sale of the product to a person and, for that reason, the time to file product liability claims had ended.

The **Georgia Supreme Court** reversed. Like the trial court, the Supreme Court adopted a "per-unit" interpretation of the statute of repose, holding that the 10-year period restarts each time a person purchases the product. Because some of the plaintiff's hair relaxers were purchased within that timeframe, dismissal was improper.

While allowing the claims to proceed, the Court emphasized the plaintiff still faces a difficult burden to prove that products purchased within the repose period caused her harm, independent of earlier exposures. The concurrence, joined by all justices, expressed doubts about the plaintiff's ultimate ability to succeed but agreed that the issue was not ripe for resolution at this stage.

PENNSYLVANIA SUPREME COURT

After spending recent years atop the Judicial Hellholes® list alongside the Philadelphia Court of Common Pleas, Pennsylvania's highest court had a relatively quiet year. The Court strengthened the doctrine of *forum non conveniens* to help rein in forum shopping but restricted the availability of arbitration in certain cases. Several significant cases remain pending, and ATRF will continue to monitor whether the court maintains positive momentum — or slips back onto the Judicial Hellholes® list in 2026.

Commonsense Venue Decision

The doctrine of *forum non conveniens* permits a court to transfer a case to a more appropriate location when a plaintiff's lawyer has chosen to file it in a county with little or no connection to the allegations, making it difficult for a party to present witnesses and evidence. This most often occurs when plaintiffs' lawyers file lawsuits in Philadelphia but their clients live, and the accidents or injuries occurred, elsewhere. The doctrine is an important check on blatant forum shopping by plaintiffs' attorneys, who prefer to litigate their cases in courts known for finding liability and returning big awards. It also protects the public's interest in deciding local cases locally, and prevents burdening local jurors and courts with cases lacking a tie to their community. It is the only recourse available for defendants to get cases out of the Philadelphia Court of Common Pleas.

This year, the **Pennsylvania Supreme Court** reinstated a lower court's decision to transfer a major motorcoach accident case to Westmoreland County on *forum non conveniens* grounds, rejecting the Superior Court's attempt to impose a new burdensome "key witness affidavit" requirement. The Court held that requiring defendants to identify specific witnesses and detail their trial testimony so early in litigation is an "unrealistic and excessively stringent burden" inconsistent with established precedent.

This case stems from a 2020 collision in **Westmoreland County** where a motorcoach bus, owned by Z&D Tour, rolled over to its side. While it blocked westbound lanes of highway travel, it was hit by two tractortrailers, one owned by FedEx and another by UPS. As a result, five people died and many were injured. Not only did the "incident trigger an enormous emergency response," but the consolidated action involved four sets of plaintiffs and 66 potential witnesses. For reasons well-chronicled in the **Philadelphia Court of Common Pleas** section of the report, the plaintiffs' lawyers chose to file their case in Philadelphia, more than 250 miles away from where the accident happened, as opposed to a Westmoreland County court.

The state Supreme Court emphasized that the Westmoreland forum is clearly more appropriate given the location of the crash, emergency response, investigation, and dozens of relevant witnesses — making this "not a close case." It rejected the argument that modern technology eliminates burdens associated with travel, noting that remote testimony is not an adequate substitute for appearing in person absent extraordinary circumstances.

A concurrence by **Justices Sallie Updyke Mundy** and **Daniel D. McCaffery** agreed with the result but cautioned against placing too much emphasis on the sheer number of witnesses and travel distance, stressing that oppressiveness must be evaluated under the specific facts of each case.

The importance of this decision can't be understated. As an amicus brief filed by the **U.S. Chamber of Commerce** recognizes, Pennsylvania is facing severe shortages of doctors and first responders, particularly in rural communities, resulting in delayed access to care and worse health outcomes. The brief notes that "more than 80,000 Pennsylvanians live in areas that are experiencing a shortage of primary care physicians." Given these strained resources, requiring essential medical and emergency personnel to travel across the state to testify would unnecessarily pull them away from critical duties when they are already in short supply.

Court Limits Application of Arbitration Agreements

A September 2025 Pennsylvania Supreme Court ruling has called into question whether lawsuits against businesses that provide activities for children that involve injury risks can rely on agreements signed by parents to resolve potential claims.

Schultz v. Sky Zone, LLC was a consolidated appeal of two separate cases in which children were injured at a trampoline park's facilities. In one case, a three-year-old was injured by an adult who entered a toddler-only area and jumped on her trampoline, throwing her off the trampoline. In the other case, a five-year-old was similarly injured when an adult, contrary to Sky Zone's rules, jumped on the boy's trampoline. In both instances, a parent had signed a form acknowledging risks of injury and agreeing to resolve claims through arbitration, rather than litigation. Nevertheless, parents filed lawsuits in Philadelphia. And, in both cases, the trial court found that the arbitration agreement was enforceable only against the parent who signed it.

The **Pennsylvania Supreme Court** ruled that a non-signing parent cannot be compelled to arbitrate based solely on a marital or family relationship, as agency cannot be presumed from family ties alone. The Court upheld an intermediate appellate court's finding that "marriage alone does not create an agency relationship." In addition, the court found that a parent's agreement cannot bind a minor child to arbitrate.

The **Pennsylvania Association for Justice**, which represents the state's personal injury lawyers, predictably celebrated the ruling. Others are concerned, however, that businesses like trampoline parks, ski slopes, sports leagues, and others that provide activities for children with inherent risks commonly rely on such parent-signed agreements. Now, in Pennsylvania, businesses can no longer rely upon these agreements, at least with respect to resolving claims through arbitration. That could jeopardize the willingness of business to provide such services or lead to higher prices to cover the increased insurance costs that may result from more litigation.

Cases to Watch

Arbitration in the Crosshairs

The **Pennsylvania Supreme Court** is now considering the enforceability of arbitration in another context, rideshare services. In September 2025, the Court held oral arguments in a case about whether "digital arbitration agreements," such as those on a website or smartphone application, "can be enforced under the same rules applicable to other contracts."

In this case, a passenger sued Uber in the **Philadelphia Court of Common Pleas** after she was injured in an auto accident during a ride, despite having agreed to Uber's terms and conditions requiring arbitration of claims. In July 2023, the full **Pennsylvania Superior Court** upheld a three-judge panel's decision to invalidate Uber's arbitration provision in its agreement. The **Superior Court** disregarded the **Federal Arbitration Act**, which prohibits states from disfavoring arbitration agreements, and held that a stricter burden of proof is necessary to ensure users understand they are waiving their right to a jury trial. This happened even after the Superior Court concluded that the plaintiff would have been bound by the other contractual provisions through ordinary application of contract law.

This decision calls into question the validity of countless arbitration agreements found in consumer contracts. Uber, like many companies, has included provisions like these in its terms and services under the expectation that the **Federal Arbitration Act** prohibits their disparate treatment. Further, the use of arbitration to settle consumer disputes is a benefit to businesses and consumers alike, providing a more efficient and less expensive alternative to litigation.

Limits on Damages in Cases Against State Agencies

The **Pennsylvania Supreme Court** will decide the future of the state's statutory limit on damages in cases involving state agencies. ***Freilich v. Southeastern Pennsylvania Transportation Authority*** involves a pedestrian struck in a crosswalk by a public transit bus. The Transportation Authority admitted negligence and the parties agreed to a $7 million stipulated verdict, which included $6 million in noneconomic damages. The trial court then decreased the award to $250,000 in compliance with state law, which permits limited recovery against the state as it is otherwise entitled to sovereign immunity. While applying the law, **Philadelphia Court of Common Pleas Judge James Crumlish** did not hide his feelings about the cap, calling it "profoundly unfair if not unconscionable" as applied in that case, but followed binding precedent and applied the law.

The plaintiff has challenged the constitutionality of the cap, arguing that the limit, which the legislature has not increased in many years, violates her right to a remedy and right to jury trial under the state constitution. Such a ruling would take a policy decision that protects taxpayers out of the hands of the legislature, which can choose to adjust the amount. In fact, when legislators proposed a bill that would have quadrupled the cap for cases involving catastrophic injuries or death in the 2023-2024 session, plaintiffs' lawyers opposed the change as insufficient and too low.

Should the Pennsylvania Supreme Court invalidate the law, government agencies may be exposed unpredictable and potentially limitless liability. The court heard oral arguments in March 2025 and is expected to rule soon.

TEXAS

For years, Texas has stood as the gold standard for balanced courts and a fair civil justice system. In recent years, however, cracks have begun to appear in that once-solid foundation. While the **Texas Supreme Court** remains committed to fairness and the rule of law, trial courts across the state are developing a growing reputation for pro-plaintiff leanings and nuclear verdicts®. Compounding these concerns, **Attorney General Ken Paxton** has launched a wave of industry-targeted lawsuits under the *Make America Healthy Again* banner — awarding lucrative contracts worth millions of dollars to his political allies in the plaintiffs' bar.

Nuclear Verdicts®

Between 2009 and 2023, Texas led the nation in the number of nuclear verdicts® — awards of $10 million or more — with 207 nuclear verdicts® totaling more than $45 billion. While the **Texas Supreme Court** has served as an important backstop, overturning some of the most outrageous verdicts, it cannot possibly review every excessive verdict handed down by the state's trial courts.

In May 2025, a **San Antonio** jury delivered the city's largest-ever verdict — an astonishing $831 million—to a plaintiff who was severely injured when struck by an intoxicated driver while riding his motorcycle in 2021. The 18-year-old driver had been drinking at Koozies Icehouse & Grill. The plaintiffs sued the establishment and its owner, Bob Kane, under **Texas' Dram Shop Act**, alleging gross negligence. The jury assigned 45% of the responsibility to Kane, 45% to Koozies, and only 10% to the intoxicated driver, finding the defendants 90% responsible under the Act.

2025 also saw one of the largest wrongful death verdicts in the history of the state. A **Harris County** jury awarded $640 million to a decedent's family who was killed in a construction accident in 2021. The jury found the operating company, TNT Crane & Rigging, grossly negligent and awarded $160 million in compensatory damages and $480 million in punitive damages.

Other 2025 nuclear verdicts® include a $31.2 million award issued in June in Tarrant County in the case involving the death of a Texas man while vacationing at a Cancun hotel.

In June 2025, the **Texas Supreme Court** threw out one of Texas's largest nuclear verdicts® in recent years, a $90 million award, which had increased to $116 million with post-judgment interest. The verdict stemmed from a highway accident in which the driver of a pickup truck, during a winter storm, lost control and skidded across a 42-foot median, colliding with an oncoming 18-wheeler. Although the 18-wheeler was traveling below the speed limit, in the 2018 Houston trial, the plaintiffs' lawyer blamed the trucking company for not instructing its drivers to take an alternative route, drive slower, or pull off the road during bad weather conditions. After seven years of appellate litigation, the **Texas Supreme Court** reversed, recognizing that while the accident was tragic, the trucking company did not cause it.

Drivers of Nuclear Verdicts® in Texas

A significant factor driving nuclear verdicts® in Texas are awards for noneconomic damages. These awards are subjective and unpredictable. They are even more so in Texas because, rather than ask jurors to return one award for past noneconomic damages and an award for future noneconomic damages, verdict forms ask jurors to return several awards, such as physical pain and suffering, mental or emotional pain or anguish, loss of consortium, disfigurement, physical impairment, loss of companionship and society, inconvenience, loss of enjoyment of life, and injury to reputation. In cases involving sympathetic plaintiffs who have experienced severe injuries, jurors may understandably feel compelled to fill in each blank line with a million-dollar figure, even if the amounts are compensating for the same emotional harm.

"Anchoring" is also a significant factor in Texas's massive verdicts. Anchoring occurs when a plaintiffs' lawyer plants an outrageously high figure in the minds of jurors who struggle with quantifying an amount to award for noneconomic damages, knowing that they are either likely to accept that amount or return a lower but still excessive verdict that they view as comparatively reasonable. In 2023, the Texas Supreme Court ruled that a plaintiffs' lawyer went too far when, in a tragic case involving an accident with an 18-wheeler, he referenced the $71 million value of a fighter jet and the $186 million auction price of a painting before asking jurors to award two cents for every one of the 650 million miles the defendants' trucks drove during the year of the accident for each decedent. The jury returned a $39 million verdict, which matched the "two cents" per person request. In a 2023 ruling, the state high court found that "unsubstantiated anchoring" like this, "whereby attorneys suggest damages amounts by reference to objects or values with no rational connection to the facts of the case," is impermissible. Still, other forms of anchoring continue.

A third factor that contributes to excessive awards is phantom damages. "Phantom damages" occur when courts calculate a plaintiff's medical expenses using a healthcare provider's list price for medical services (sometimes called a "chargemaster rate") instead of the amount the healthcare provider ordinarily accepts as payment from the patient, or the patient's insurer, Medicare, Medicaid, or workers' compensation. For example, a hospital may bill $20,000 for an emergency room visit, while the amount the hospital actually receives may be $8,000. The $12,000 difference is not owed or ever paid for the treatment — that is the amount of phantom damages.

Since 2003, a Texas statute has provided that damages for medical expenses are limited to amounts "actually paid or incurred." The **Texas Supreme Court** has applied this statute to prohibit admission of list prices or billed rates that do not reflect amounts actually paid. Despite this statute, phantom damages persist in Texas. Some plaintiffs' lawyers have used "letters of protection" (in which a medical clinic that treats the

plaintiff agrees not to collect its charges until after the lawsuit settles) to avoid an amount "actually paid." In addition, the statute does not address how to determine the reasonable value of future medical care.

Legislative Solution Fails

The Texas legislature had the opportunity to address these contributing factors and the nuclear verdicts® crisis with **S.B. 30** but the bill failed in committee. According to a recent report, Texans pay an average of $1,725 more for goods and services every year as the cost of lawsuits and massive court awards are passed on to consumers.

AG Activity

Contributing to the deterioration of Texas' civil justice system and the overall litigious nature of the state is **Attorney General Ken Paxton** and his abundant use of outside contingency fee counsel to target industry.

Over the past few years, Paxton's office has "grown increasingly reliant on pricey private lawyers." He has outsourced state representation contracts to lawyers with "whom [he] has personal or political ties" — including **Tony Buzbee**, the personal injury attorney who defended him during his 2023 impeachment trial — as well as to other attorneys at prominent firms whose senior partners have previously donated to his political campaigns.

Paxton continues to engage outside firms even when there are over 750 attorneys staffed in the Texas Attorney General's office, including over 80 employees staffed in the Antitrust and Consumer Protection Divisions. Despite the army of government lawyers at his disposal, his office claims that the "legal services cannot be adequately performed by the attorneys and supporting personnel."

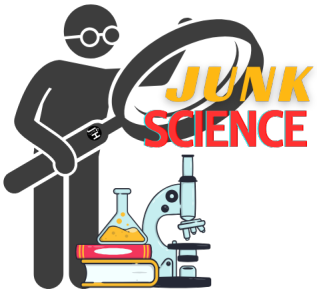
One of the more lucrative contingency fee contract awards came in 2022, when Paxton launched an investigation against Meta, the parent company of Facebook, Instagram and WhatsApp. Ultimately, the state was awarded a $1.4 billion payout last year over the wrongful use of consumers' biometric information without consent. Paxton hired one of his preferred plaintiffs' firms, **Keller Postman**, as outside counsel, and allowed one lawyer to bill upwards of **$3,780 per hour** (which cost taxpayers $24,570 for one day's worth of work).

2025 Litigation Launched Under MAHA Banner

Manufacturers of medications, infant formula, food, and even toothpaste have come under a barrage of lawsuits filed by Attorney General Paxton and his teams of contingency fee lawyers. These novel lawsuits are driven by fearmongering and populist politics, not sound science.

PAXTON FILES SUIT AGAINST TYLENOL FOR AUTISM CLAIMS

In a move that bears all the hallmarks of trial bar influence, **Attorney General Paxton** filed a lawsuit against Johnson & Johnson and its spinoff company, Kenvue — the makers of Tylenol — alleging that they deceptively marketed the pain reliever to pregnant women despite allegedly knowing that its active ingredient, acetaminophen, causes autism and other developmental disorders.



This comes following **Health and Human Services Secretary Robert F. Kennedy Jr.'s** announcement, claiming prenatal use of Tylenol is a potential cause of autism. The determination was based largely on junk science that has already been rejected by courts.

According to **AG Paxton**, he seeks to hold "Big Pharma accountable" and to "Make America Healthy Again." And if he happens to make his plaintiffs' lawyer friends wealthy at the same time, that's just an added bonus!

The lead plaintiffs' attorney in the Tylenol MDL, **Ashley Keller**, founding partner of **Keller Postman**, is among the trial lawyers pleased to have a plaintiff-and litigation-friendly ally in President Trump's administration. In addition to the suit against Meta, **Keller Postman** also **previously represented Texas** in

litigation against Google. **Zina Bash**, a partner at Keller Postman, previously worked for Paxton in the Texas AG's office. Not surprisingly, the firm has been tapped to handle the litigation for the state.

Texas is the first state to file a case of this nature.

HEAVY METAL PROBE IN BABY FOODS

In August 2025, AG Paxton's office launched an investigation into major baby food makers, including Gerber and Plum Organics, for their alleged contribution in selling baby food with "dangerously high levels of heavy metals," including arsenic, lead, and mercury.

In its news release, the office alleges that the baby food manufacturers rely on internal metal standards that are set at "unreasonable levels." Further, the companies are accused of deceptive advertising and false misrepresentations about the health benefits of their products.

A spokesperson for Gerber told Law360 that they "regularly test for more than 500 toxins" and require their "products to pass at least 100 individual quality checks" before they are sold. The spokesperson also referenced the Consumer Report's most recent rating, which highlighted Gerber as a top company for "transparency" as "parents and caregivers can easily find the test results for Gerber products on our website." A spokesperson for Plum Organics emphasized their rigorous efforts in ensuring that their products follow the Food and Drug Administration's recent "Closer to Zero" January 2025 initiative.

TOOTHPASTE PROBE

In May 2025, **AG Paxton** issued **Civil Investigative Demands (CIDs)** to Colgate and Proctor & Gamble, which sells Crest toothpaste, for misleadingly and deceptively "marketing toothpaste products to parents and children."

In supporting this investigation, the Attorney General's office relied on an August 2024 meta-analysis conducted by **HHS's National Toxicology Program** which determined a "statistically significant association" between "fluoride exposure and lower IQ scores in children." **AG Paxton** vows to "take aggressive action against any corporation that puts our children's health at risk."

Colgate came to an agreement with Paxton's office in September 2025 to include visual depictions of fluoride-safe amounts of toothpaste for children that are "consistent with the product labels' usage instructions" which are not being changed as they "consistently reflect FDA requirements."

CANDY PROBE

In July 2025, **AG Ken Paxton** announced an investigation against Mars for engaging in "deceptive trade practices." The candy-maker, responsible for making M&M's and Skittles, publicly pledged back in 2016 to "remove all artificial colors from its human food products" but only did so in Europe. The press release notes that the company "falsely claimed that 'artificial colors pose no known risks to human health or safety.'"

The Attorney General hopes that Mars will "honor its public commitment and ensure that it stays on the right side of the law" to "remove toxic artificial dyes from its U.S. food products." He also urged Mars to "follow the lead of other companies like Nestle and Hershey by removing synthetic dyes from its products." In a statement made to Law360, Mars asserts that all their ingredients are "manufactured in compliance with strict quality and safety regulations established by food safety authorities, including the FDA."

TEXAS ATTORNEY GENERAL LAUNCHED INVESTIGATION AGAINST POPULAR CEREAL BRANDS

In April 2025, **AG Paxton** also launched an investigation into WK Kellogg Co. for falsely advertising its products as "healthy." Some of the named cereals include: Froot Loops, Apple Jacks, Frosted Flakes, and Rice Krispies. The AG's office claims that some of the company's cereals contain "petroleum-based artificial food colorings" associated with "hyperactivity, obesity, autoimmune disease, endocrine-related health problems, and cancer."

In August, the office announced an agreement with Kellogg, claiming that they are "legally agreeing to remove artificial food colorings from its cereals by

the end of 2027." Kellogg signed an Assurance of Voluntary Compliance being the "first [company] to officially sign a legally binding agreement."

TEXAS AG KEN PAXTON SUES ROBLOX FOR DECEIVING PARENTS OVER ONLINE RISKS

Texas Attorney General Ken Paxton's latest target is **Roblox**, the popular online gaming and creation platform. In a recently filed lawsuit, Paxton accuses the company of intentionally misleading parents about safety risks to children who engage with interactive games on the platform.

It alleges violations of the **Texas Deceptive Trade Practices Act** and asserts a common-nuisance claim, alleging that Roblox failed "to protect those children from the very real monsters that it knows are lurking on its platform."

According to the lawsuit, Roblox has not implemented adequate safeguards to prevent minors from communicating with adults online. The state retained private counsel from **Holtzman Vogel** for the matter.

MICHIGAN SUPREME COURT

After ranking #8 in last year's Judicial Hellholes® report, the **Michigan Supreme Court** has moved to the Watch List — largely because it has yet to issue several high-profile, long-awaited decisions. ATRF will closely monitor whether the Court takes seriously the concerns highlighted in recent reports and works to rein in lawsuit abuse, or whether it continues down an activist path that expands liability and disregards longstanding, commonsense precedent.

Expansive Liability for Employers

In two decisions issued in 2025, the **Michigan Supreme Court** continued its trend of putting employers in the hot seat by expanding their liability exposure.

First, the Court broadened employer exposure to retaliatory discharge claims. These claims are intended to be a narrow departure from at-will employment, which ordinarily allows an employer to terminate an employee for any reason. Michigan precedent previously allowed an employee to bring such a claim if an employer fired the employee for refusing to violate a law and the reason for the discharge was the employee's exercise of a right conferred by a "well-established legislative enactment." Instead, in ***Janetsky v. County of Saginaw***, the majority allowed such lawsuits when an employee is fired and asserts it was because he or she "reasonably and in good faith believed they were remedying or preventing a violation of law." The case involved an assistant county prosecutor who was terminated after taking issue with a plea deal entered by her supervisor.

Justice Brian Zahra authored a strong dissent, warning that the majority had loosened the standard by authorizing lawsuits whenever a terminated employee can claim the employee was trying to achieve compliance with his or her own understanding of the law. "This is an incredibly nebulous notion that may result in a 'chilling effect' on employers," Justice Zahra observed, "discouraging them from engaging in lawful activities for fear that their employees may disagree with the lawfulness of their actions." **Justice Zahra** also would have affirmed the Court of Appeals' dismissal of the employee's false imprisonment claim, which was based on her supervisor placing his hand on a doorknob during an argument about the matter that lasted for no more than 30 seconds.

A few days later, the Court found unenforceable a provision in an employment agreement that required an employee to bring any claims — such as wrongful discharge or harassment — within six months of the alleged incident. In ***Rayford v. American House Roseville I, LLC***, the Court overturned a 2005 precedent and held that courts must now apply a reasonableness analysis to employee stipulation agreements that set timelines for filing suit. The majority reasoned that disparities in bargaining power between employers and employees, combined with the use of "boilerplate" employment contracts, warrant closer judicial scrutiny.

By bypassing the clear terms of a voluntary contractual agreement, the Court opened the door for greater judicial intervention in private employment relationships.

In another forceful dissent, **Justice Zahra** criticized the majority's reasoning as "overreaching activism" that undermines contractual certainty and subjects employers to excessive liability.

Stare Decisis No More

Changes Coming to Premise Liability?

The **Michigan Supreme Court** has signaled a willingness to discard longstanding precedent — particularly in the context of premises liability. Last year's report highlighted troubling decisions in which the Court expanded slip-and-fall liability. Now, the Court is considering two new cases that again test its commitment to stare decisis.

The first case, ***Molitoris***, concerns a landowner's duty to warn of hidden dangers. The case arose after a parishioner slipped on black ice while volunteering at a church and sued for ordinary negligence and premises liability. After the plaintiff dropped her negligence claim, the trial court granted summary disposition to the church. The **Court of Appeals** affirmed, applying well-settled Michigan law that limits a landowner's duty to licensees to warn licensees (those who enter property for noncommercial purposes) to hidden hazards that the owner actually knows exist.

In the second case, ***Radke***, the plaintiff fell through an uncovered basement opening at a friend's home where construction was underway. He sued both the homeowner and contractor for negligence. The contractor successfully argued at trial that it had no duty to warn of open and obvious dangers. Although the Court of Appeals affirmed — relying on *Stit*t, which for 25 years has defined the limited duty owed to licensees — the Supreme Court remanded the matter for reconsideration in light of last year's decisions undermining traditional premises liability distinctions. On remand, the **Court of Appeals** stood by its earlier ruling.

The **Michigan Supreme Court** held oral arguments in both these cases in October 2025. These cases present the Supreme Court with a pivotal choice: whether to reaffirm the existing framework that distinguishes duties owed to invitees, licensees, and trespassers, or overturn *Stitt* and adopt the Restatement of the Law (Third) of Torts' broader duty of "reasonable care" that applies to any person who enters a landowner's property. The traditional distinctions are premised on the policy that landowners have a duty to inspect and make their premises safe when the visit is tied to their commercial interests (i.e., they are profiting from the guest's presence), a duty to protect against known hazards when they are not profiting, and no duty when the person injured is a trespasser.

One Court of Appeals judge in *Molitoris* openly encouraged the high court to embrace the Restatement standard and "jettison" distinctions based on the plaintiff's status. Should the Court do so, it would not only disrupt decades of precedent but also fundamentally reshape Michigan's premises liability landscape.

Consumer Protection

Attorney General Dana Nessel has urged the **Michigan Supreme Court** to overturn long-standing precedent to allow her office to investigate a pharmaceutical company under the **Michigan Consumer Protection Act (MCPA)**. While the MCPA was enacted to protect Michigan consumers from unfair business practices, the legislature intentionally carved out transactions or conduct that is already regulated and specifically authorized by state or federal agencies. The **Michigan Supreme Court** has applied this statutory exemption to preclude MCPA against regulated industries in ***Smith v. Globe Life Insurance Co.*** (1999) and ***Liss v. Lewiston-Richards, Inc.*** (2007).

Despite these clear precedents, attorney general has invoked the MCPA to accuse Eli Lilly of engaging in unfair business practices in setting prices for its products, in this case, insulin.

The lower courts agreed with Eli Lilly, finding that its pricing of pharmaceuticals falls within the MCPA's regulatory exemption. Now, the **Michigan Supreme Court** faces yet another test of its commitment to stare decisis. It must decide whether to reaffirm *Smith* and *Liss* — both roughly two decades old — which have

consistently protected federally regulated business activities from duplicative litigation.

The **American Tort Reform Association (ATRA)** filed an *amicus curiae* brief in this case, emphasizing the importance of maintaining the careful balance between consumer protection and regulatory consistency. The MCPA was designed to further important policy goals while recognizing that consumers in regulated industries, such as pharmaceuticals, are already protected by federal agencies like the FDA. Overturning these two key precedents, **ATRA** cautioned, would have far-reaching ripple effects across numerous industries and could significantly burden smaller Michigan-based businesses and licensed service providers.

Limits on Medical Liability Damages at Risk

Last year's report highlighted ***Beaubien v. Trivedi***, a case challenging the maximum amount that may be awarded for noneconomic damage awards in medical liability actions. In July 2025, the **Michigan Supreme Court** declined review, with a concurring justice noting that Michigan courts had repeatedly upheld the statute's constitutionality, making further examination unnecessary.

Now, ***Chatman v. Owens*** presents the next major test. Currently before the **Court of Appeals**, the case also seeks to dismantle established precedent upholding Michigan's statutory limits. These limits, which are adjusted annually, currently allow plaintiffs in medical liability cases to recover up to $586,300 in noneconomic damages or $1,047,000 in cases involving certain permanent disabilities, on top of unlimited economic damages (such as medical expenses and lost income). If Michigan courts invalidate the statute, the jump in liability exposure, settlement demands, and awards could drive physicians out of the state — creating significant consequences for the healthcare system.

Legislative HeatCheck

This summer, the American Tort Reform Association's Legislative HeatCheck placed the **Michigan Legislature on "*Heat Watch*."** Several pending bills raise red flags for potential lawsuit abuse, including a bill that would create a False Claims Act, which would significantly expand potential liability for those doing business with or receiving funds from Michigan state and local governments.

LOUISIANA

This year, the Louisiana legislature enacted significant reforms aimed at curbing long-standing abuses within the state's civil justice system. Lawmakers prioritized addressing some of the most persistent problems that have fueled fraud and litigation abuse for years, hindering Louisiana's legal and economic environment.

Florida, a former Number 1 Judicial Hellhole®, took a similar approach to addressing the problems with their litigation climate in 2023. Reforms championed by Governor DeSantis were specifically targeted to address evident abuses in the state. By improving the system, a byproduct has been a more robust insurance market and now businesses and consumers are experiencing a benefit.

The success of these reforms will depend on whether state courts implement the new laws and help restore fairness, stability, and confidence in the state's civil justice system. It also remains to be seen whether the enacted reforms are sufficient to meet the challenges in the Bayou.

Louisiana Residents Bogged Down by High Auto Insurance Due to Rampant Fraud

Louisiana drivers pay an average of $3,618 per year for car insurance premiums — more than $1,000 above the national average of $2,543.

Yet, Louisiana's car accident statistics are only slightly higher than national averages, according to the **Insurance Institute for Highway Safety**. By comparison, Mississippi records a far higher traffic fatality rate — 23.9 deaths per 100,000 residents, versus Louisiana's 19.7 — but Mississippi drivers pay nearly half the cost for insurance.

A significant contributing factor is the number of claims filed each year. Data from the **National Association of Insurance Commissioners** shows that the rate of individuals filing insurance claims in Louisiana is 200% higher than the national average.

"Operation Sideswipe"

One driver of Louisiana's high volume of claims and high costs is simply fraud.

A sprawling federal investigation, dubbed "**Operation Sideswipe,"** is exposing the scope of fraud: staged accidents with big rigs in the New Orleans area. Prosecutors say that these accidents typically involved a driver ("the slammer") intentionally colliding with a tractor trailer and a second person entering the vehicle and feigning injury. Working with lawyers and doctors who may have been in on the scheme, prosecutors allege that the participants would then demand compensation for the bogus accident. Those involved ultimately secured settlements from insurance companies that provided coverage for the commercial carriers.

As discussed in the American Tort Reform Association's recent report, **Sanctionable**, multiple individuals have been indicted for their role in the massive fraud, including lawyers from **Motta Law, LLC** and **The King Firm, LLC**. They have been charged with conspiracy to commit mail and wire fraud, witness tampering, and obstruction of justice among other charges. At least 63 individuals have been charged in the scheme and 49 individuals have been convicted so far, according to the **U.S. Attorney's Office for the Eastern District of Louisiana.**

Copycat Fraud in Lafayette

In March 2025, the **Louisiana State Police Insurance Fraud and Auto Theft Department** uncovered a similar staged car-crash scheme in Lafayette, Louisiana. The investigation is still unfolding, but authorities have already arrested three individuals in connection with the fraudulent scheme.

Investigators say one suspect deliberately slammed a truck into the rear of a Chevrolet Silverado driven by another suspect. The third suspect, also named in the case, was riding in the Silverado alongside three juveniles. After the crash, all five occupants of the Silverado filed insurance claims against the trucking company, collectively demanding nearly $10 million in damages.

KENTUCKY

Kentucky once again finds itself on the Watch List after a one-year hiatus. Trial courts across the state award nuclear verdicts® and issue liability-expanding decisions. The excessive lawsuit abuse occurring in the state burdens Kentucky households by $2,608, on average.

Nuclear Verdicts® Becoming More Prevalent

Nuclear verdicts®, or those noneconomic damage awards of $10 million or more, are becoming more of the norm across the state over the last two years.

In March 2024, a **Grayson County** jury awarded $22.6 million to a subcontractor's wife and three construction workers in a negligence action

arising out of an accident at a construction site. Following that verdict, a **Greenup County** jury awarded $22 million against a personal care home after a resident suffered a fatal brain bleed following a fall. The facility promptly notified the resident's son — an attorney — who came in person to assess his father's condition. When symptoms worsened, staff immediately transported the resident to the emergency room. Nonetheless, the plaintiff's estate pursued claims of negligence and inadequate care, resulting in the substantial award.

More recently, in March 2025, a **Lyon County** jury returned an $11.08 million verdict against a waste management company after debris allegedly fell from one of its trucks onto a highway. Although the driver testified that the load had been properly secured and the latch likely loosened during normal travel, several motorcyclists struck the debris and crashed, suing the company for negligence. Despite modest medical expenses — ranging from just $2,307 to $61,128 — each plaintiff received several million dollars in noneconomic damages.

Expansion of Vicarious Liability

The **Jefferson County Circuit Court** recently crafted a sweeping new vicarious liability standard for heavy motor trucks in Kentucky — while simultaneously handing down a staggering $164 million verdict.

The case arose from an accident in which a woman was rear-ended by a tow truck and sustained permanent injuries. The plaintiff sued both the driver and the towing company for negligence. However, what has drawn widespread concern is that the plaintiff was also permitted to sue GEICO — simply because the insurer had a contract with the towing company to provide roadside assistance to GEICO-insured drivers. This inclusion stretched far beyond the traditional independent contractor relationship that typically limits liability. Even more troubling, there was no confirmation that the tow truck was responding to a GEICO roadside assistance call at the time of the accident. A single, uncertain witness provided the only tenuous link between GEICO and the incident.

The court ruled that the nature of the relationship between GEICO and the towing company was a question for the jury, yet simultaneously paved the way for GEICO's liability. Acknowledging that employers are generally not liable for the actions of independent contractors, the trial court invoked a narrow exception for "inherently dangerous" activities. In a significant departure from precedent, the court declared that operating heavy motor trucks qualifies as inherently dangerous — an interpretation traditionally reserved for activities involving explosives, fire, or other extreme risks. Relying on decades-old statutory language rather than modern case law, the court expanded this exception to include all heavy motor trucks, not just tow trucks, as posing inherent danger to the public.

The **American Tort Reform Association (ATRA)** filed an amicus curiae brief urging the appellate court to reject the trial court's flawed reasoning. The brief emphasized that Kentucky precedent has consistently declined to classify even hazardous trucking activities — such as asphalt hauling — as inherently dangerous. The trial court's overreach, ATRA argued, invites unwarranted liability and contradicts well-established doctrine.

If upheld, this decision could have sweeping consequences. Plaintiffs could begin targeting distant third-party insurers that had no direct involvement in an incident, leading to a surge in nuclear verdicts®. The resulting uncertainty and financial exposure could drive up insurance costs for trucking companies and motorists alike, with the heaviest burden falling on working-class Kentuckians who may be forced to scale back insurance coverage due to rising premiums.

Responding to Suspicious Claims

ATRF has kept a watchful eye on a case slowly making its way through the Kentucky court system that could impact the willingness of businesses and insurers to investigate and report potentially fraudulent claims.

In 2022, a **Greenup County** court punished a business for its conscientious investigation and reporting of a suspicious surge of disability claims asserted by its employees by stretching the torts of defamation and tortious interference.

A railroad company, CSX Transportation, Inc. ("CSXT"), had a policy of providing furloughed employees up to four months of benefits, but allowing employees who are out of work due to a medical condition at the time of the furlough to continue to receive benefits for two years. In 2017, a surge of employees attempted to exploit this policy following announcements of expected workforce reductions. CSXT became suspicious when it received an unprecedented number of soft-tissue injury claims filed on behalf of employees by two chiropractors who frequently treated CSXT railroad workers. Initiating an internal investigation, CSXT and its medical director, Dr. Heligman, sent a letter to the Railroad Retirement Board, as well as private insurers and chiropractic boards, alerting them of the potential fraud involving the doctors and the employees. The investigation confirmed CSXT's concerns, prompting the company to discontinue accepting injury claims submitted by these doctors.

The doctors sued CSXT and Dr. Heligman in 2018, alleging that their letter requesting that other entities investigate the suspicious claims was defamatory, and that they tortiously interfered with the doctors' business relationships with the employees. A **Greenup Circuit Court** jury delivered a substantial judgment in favor of the plaintiffs, consisting of $21.4 million in punitive damages and $1.4 million in compensatory damages.

In May 2024, the **Kentucky Court of Appeals** overturned the verdict. The court held that the trial court erred by failing to instruct the jury that there is defense to liability for defamation (a qualified privilege) that allows people and organizations to communicate freely about matters in which they share a common interest. As Dr. Heligman had communicated his suspicions only to others that shared a common interest in uprooting fraud and regulating unethical activity. The plaintiffs have appealed to the Kentucky Supreme Court. ATRA filed an amicus brief in the case.

Failing to apply this privilege to employers with legitimate suspicions of fraudulent claims will deter businesses and insurers from sharing information, investigating lawsuit abuse, and reporting potential misconduct to those who can take action. Fraudulent claim schemes can arise in a wide range of contexts, from staged accidents to clinics that, working with attorneys, exaggerate injuries or inflate medical bills. The ability to investigate fraud without a threat of liability for defamation is also particularly important in mass tort litigation, where illegitimate claims can easily get mixed in with viable ones.

In fact, another case to watch is a RICO action pending before a federal court in Kentucky. That action, filed by 3M this summer, alleges that three attorneys conspired to file fraudulent lawsuits against the company claiming that its respirators (dust masks) failed to adequately protect workers from black lung disease.

According to the RICO action, the lawyers "solicited coal miners to join cookie-cutter complaints claiming that 3M was to blame for the black lung disease and other injuries allegedly sustained in coal mines and coached them to lie about those allegations." The complaint alleges that the trio filed 850 of these claims over 18-months in Eastern Kentucky counties knowing some of their clients did not have the disease and others did not use 3M's masks. The goal, as it often is in mass tort litigation, was to pressure the company to settle the cases en masse, according to the complaint. The lawyers recently filed motions to dismiss, arguing that 3M is simply unhappy about having to defend itself in Kentucky's state courts and that they are immune from suit for their litigation activity.

Dishonorable Mentions

This report's **Dishonorable Mentions** generally comprise singularly unsound court decisions, abusive practices or other actions that erode the fairness of a state's civil justice system and are not otherwise detailed in other sections of the report.

Fourth Circuit Embraces Expansive View of Public Nuisance Law

This fall, the **U.S. Court of Appeals for the Fourth Circuit Court** adopted an expansive interpretation of a West Virginia's public nuisance law. The tort of public nuisance historically has been reserved for dealing with a variety of local disturbances involving the public's right to use certain local lands and waterways.

However, in ***City of Huntington v. AmerisourceBergen Drug Corp.***, the federal appellate court held West Virginia's public nuisance law could be invoked to impose liability on companies that distribute products, here opioid medications to pharmacies. Specifically, the City alleges the opioid epidemic constitutes a public nuisance, even though it does not involve a local land or water disturbance, and that these companies, by "over-distribut[ing]" opioids, caused the opioid epidemic and has to pay the government's costs to fight the epidemic and treat opioid abuse. There is no basis in West Virginia law for this expansive view of public nuisance law. These are product, not public nuisance, claims.

The trial court had it right. After a lengthy bench trial, it held that the distribution of prescription drugs cannot form the basis of a public nuisance action. The court explained that the transfer of legally prescribed controlled substances for illicit purposes is not the type of activity that is governed by public nuisance law and is already subject to extensive DEA monitoring, regulation, and enforcement. Further, any causal chain between distributors of these lawful medications and the misuse of those medications by individuals is broken by many independent actors involved after distribution.

The **Fourth Circuit** had initially certified these questions to the West Virginia Supreme Court of Appeals, which, after a hearing, decided not to answer them. The Fourth Circuit then used this lack of clarity as its rationale for finding that, because the **West Virginia Supreme Court of Appeals** had not expressly narrowed the law's scope, the state's law was open to broader application: the "State Supreme Court has not identified any specific product-based harm that should be excluded from qualifying as a public nuisance."

The **Fourth Circuit** then held—contrary to West Virginia law and every other state supreme court to hear similarly expansive public nuisance theories—that public nuisance law could apply "when the evidence establishes that distribution of [a] product unreasonably 'operates to hurt or inconvenience an indefinite number of persons.'"

This decision marks a significant departure from traditional limits on public nuisance law, opening the door to unprincipled liability—at least in West Virginia. In this way, it is a dangerous step in the trial bar's longstanding effort to transform public nuisance into a "Super Tort" capable of shifting costs of societal issues to businesses merely because they made, sold, or distributed products that others used or misused to cause harm. In addition, the Fourth Circuit's willingness—or eagerness—to move West Virginia tort law into an area in which it's never been before, is particularly concerning given the limited role federal courts are supposed to have when applying state tort law. Under longstanding U.S. Supreme Court precedence, federal courts must follow state tort law. If state law presents an open question requiring a federal court to "predict" how the state supreme court would rule, federal courts typically exercise restraint and apply firmly established state law, rather than accept an invitation to adopt a novel theory.

Here, although the **Fourth Circuit** appropriately certified these questions to the **West Virginia Supreme Court of Appeals**, after that court declined review, the **Fourth Circuit** should not have used that as an excuse to throw caution to the wind and apply the state's public nuisance law in a way no court had ever done. The only solace is that this ruling is not binding on WV courts and does not apply to any other state public nuisance law.

Colorado Court Issues Burdensome Evidentiary Decision

In June 2025, the **Colorado Supreme Court** issued a troubling decision that subjects defendants to unpredictable and unfair new liability exposure if they have not retained evidence that could be relevant to a suit brought months or years later.

Under prior Colorado law, defendants faced consequences if, after litigation commenced, they discarded or willfully destroyed evidence. This duty to preserve evidence was triggered upon the filing of a lawsuit or receiving clear notice that a person plans to sue, such as a demand letter. There was a clear, bright-line standard. That's important because a failure to preserve evidence can result in the court instructing the jury to assume any missing records support the other side's position (known as an "adverse inference").

The Colorado Supreme Court's decision in ***Terra Management Group, LLC v. Keaten*** instead adopts a loose test, requiring a party to preserve evidence whenever litigation is "reasonably foreseeable." While the state supreme court provided factors for a trial court to consider when deciding whether to sanction a party for failing to preserve evidence, the court emphasized the "flexibility" of the new standard. Now, litigants in Colorado may face sanctions even when they fail to preserve records in good faith, not anticipating a lawsuit down the road.

As a result of the ruling, the **Colorado Supreme Court** upheld a $10.5 million award to a tenant who sued a property management company, alleging injuries from exposure to a meth lab operating in the unit below her apartment. The lawsuit was not filed until more than a year after the incidents, during which time the management company had heard nothing from the plaintiff.

The Colorado Supreme Court's decision strips individuals and businesses of any clear guidance about when or what to preserve — effectively requiring parties to maintain any conceivable piece of evidence that *might* later be tied to litigation. Storing records or other items that are no longer needed on the off chance that they could be relevant to a future lawsuit will have needless costs. The alternative comes with a risk of substantial unfair liability.

Ohio Appellate Courts Allow Unlimited Noneconomic Damages

In a pair of 2025 decisions, two Ohio appellate courts struck down the state's limit on noneconomic damages in medical liability cases, each on different grounds.

Ohio law provides that a person who is harmed by medical negligence can recover unlimited economic damages, such as for medical care and treatment expenses, lost earning capacity, or any other quantifiable cost. To maintain predictability and stability for Ohio's healthcare environment, the Ohio legislature has set a considerable, but not unlimited, remedy for a plaintiff's noneconomic damages, which are notoriously difficult (if not impossible) to measure objectively and reliably. In medical liability cases, the maximum noneconomic damage award is the greater of $350,000 or three times a plaintiff's economic damages, or, in cases involving catastrophic injuries, $500,000.

In January 2025, **Ohio's Eighth Appellate District** invalidated that law on due process grounds in ***Paganini v. Cataract Eye Center of Cleveland***. In so doing, the appellate court second guessed the legislature's determination that setting parameters for the size of noneconomic damage awards facilitates stability in the medical liability insurance rates for healthcare providers. While the court purported to invalidate that award "as applied" to a specific plaintiff's case (who received a $1.5 million in noneconomic damages

award), its ruling suggests that reducing any award that substantially exceeds the statutory maximum is unconstitutional.

Then, in August 2025, the **Tenth Appellate District** also found the noneconomic damage law unconstitutional on both due process and equal protection grounds. In ***Lyon v. Riverside Methodist Hospital***, the court gave proper deference to the legislature's policy, but nevertheless found the limit "unreasonable and arbitrary" as applied to a plaintiff who had received a $20 million noneconomic damage award. The court ruled that those with severe injuries should be wholly exempt from any limit. Its decision suggested that, whether a person is severely injured in an auto accident or through medical treatment, he or she should be able to recover the same noneconomic damages. This approach, however, disregards the adverse consequences that can occur for doctors, patients, and the public when healthcare providers are hit with nuclear verdicts.

The result of these "as applied" rulings is that there is now uncertainty as to when Ohio's statutory limit on noneconomic damages applies in medical liability cases. Plaintiffs' lawyers are likely to challenge its application in virtually every case, which defeats the predictability that such a law is intended to provide. It will also make it far more difficult to settle medical liability cases, leading to needless litigation.

The **Ohio Supreme Court** has granted review of *Paganini* and, as of this writing, is considering whether to review the *Lyon* decision. Meanwhile, legislation introduced in the Ohio General Assembly proposes a substantial increase in the statutory maximum, demonstrating that the legislature is perfectly capable of making such policy judgments without judicial intervention.

Points Of Light

This report's Points of Light typically comprise noteworthy actions taken by judges and lawmakers to stem abuses of the civil justice system not detailed elsewhere in the report.

No Injury, No Claim: Colorado Court Rejects Medical Monitoring Damages Theory

The **Colorado Court of Appeals** issued an important ruling that upholds "one of the basic principles of law," which is that "a party may not recover damages if he has not suffered an injury."

The case involved a class action filed on behalf of residents living near a medical sterilization plant's facilities, claiming that ethylene oxide (EtO) emissions dating back as far as three decades placed them at a higher risk for cancer. The class action, however, did not include anyone who had developed cancer and instead sought, on behalf of healthy people, damages for the costs of ongoing medical monitoring to detect any illnesses that might be caused by the emissions in the future.

In October 2025, the **Court of Appeals** affirmed a lower court ruling dismissing the class action for lack of standing, finding the plaintiffs failed to allege a cognizable, actual injury. The court recognized that speculative concerns and hypothetical claims of future injuries, with no present illness or disease, do not provide a basis for a tort claim. Rather, the lawsuit alleged only "conclusory" allegations that exposure could have harmed the named plaintiff or class members without claiming that anyone experienced a "*currently existing* adverse effect."

As the Court of Appeals recognized, "a trend has emerged as courts throughout the country have repeatedly held that a toxic tort claim cannot proceed in absence of a present physical injury." The court's decision is consistent with this approach, which reserves lawsuits for cases involving actual injuries.

Delaware Supreme Court Rejects Junk Science

In July 2025, the **Delaware Supreme Court** overturned a trial court ruling that allowed thousands of product liability lawsuits that had been thrown out of federal court as based on unreliable science to proceed in state court.

The Zantac litigation saga began in 2019 when **Valisure**, a small private lab in Connecticut, linked the drug to certain types of cancers. Zantac was voluntarily removed from the market in 2020 after a study by Valisure found that one of the medication's ingredients, ranitidine, could possibly degrade to form a probable human carcinogen known as NDMA.

Valisure's testing methodology involved heating the product to well over 200 degrees, which is clearly not a realistic scenario for how an individual would consume the drug, considering that is double the temperature of the average healthy person. Besides heating the product to temperatures it would not otherwise be subjected to, Valisure also tested the product with an artificial stomach containing unusually high amounts of salt – amounts that humans could not safely ingest.

To make matters worse, the **FDA** actually found that Valisure's lab equipment created NDMA. Following the release of the Valisure report, 16 epidemiological studies were released all finding no credible evidence of Zantac being a carcinogen.

A federal court overseeing Zantac litigation dismissed thousands of these cases in 2022 after flaws behind the science of plaintiff experts' claims were exposed by **U.S. District Court Judge Robin Rosenberg**. **Judge Rosenberg** said "there is no scientist outside this litigation," despite extensive study of the question after the product's voluntary withdrawal, "who concluded ranitidine causes cancer."

As a result of the federal court ruling, Zantac cases surged in Delaware and other state courts, as mass tort lawyers looked for a different result. They filed more than 75,000 Zantac claims in Delaware state courts with 99.6% filed on behalf of out-of-state plaintiffs.

They initially succeeded, obtaining from the Delaware trial court rulings that contradicted those issued in the federal multidistrict litigation. Last summer, **Delaware Superior Court Judge Vivian L. Medinilla** refused to exercise her essential role as gatekeeper and permitted junk science to serve as the basis for Zantac litigation in the state. The decision threatened to create a litigation hotbed in Delaware, a state traditionally known for its fair, balanced, and predictable treatment of corporations.

In overturning the lower court, the **Delaware Supreme Court** found that the trial court had misapplied Delaware's expert evidence rules in several key respects. First, the Court emphasized that Delaware's evidentiary standard mirrors the rigorous federal framework.

Second, the Court rejected the notion that **Delaware Rule of Evidence 702** carries a "liberal thrust" favoring admission of expert testimony, citing the 2023 amendments to the Federal Rule of Evidence 702—which the Delaware rule is designed to emulate—and the Advisory Committee's Report, both of which explicitly disavow that interpretation.

Third, the Court held that the trial court improperly conflated the court's gatekeeping responsibility to ensure that proposed expert testimony is based on sound science and is reliable, allowing its admission, with the jury's role of assessing the evidentiary weight of expert testimony. The improperly admitted testimony, the court found, was based on "cherry-picked data," reliance on animal and occupational NDMA studies unrelated to ranitidine, and a lack of dose-response analysis.

Finally, the Supreme Court found that the lower court failed to establish a "reliable bridge" connecting Zantac, the scientific evidence, and the alleged harms. By permitting experts to rely on generalized NDMA data divorced from ranitidine and the specific cancers at issue, the trial court fell short of the general causation standard required under Delaware law.

The Delaware Supreme Court's ruling reenforces the responsibility of judges to act as gatekeepers over the reliability of expert testimony. It also sends a clear message to lawyers that court shopping in mass tort litigation is not a successful strategy.

Maine High Court Declines to Broaden Scope of Public Nuisance Liability

The **Maine Supreme Judicial Court** rejected an attempt to expand public nuisance claims and other broad theories of tort liability in connection with the opioid epidemic.

Nine Maine hospitals had sued opioid manufacturers and distributors, alleging the companies' marketing and distribution practices created widespread addiction, which in turn, imposed significant economic burdens on hospitals tasked with treating affected individuals. The hospitals advanced claims for negligence, unjust enrichment, fraud (including negligent misrepresentation and concealment), and civil conspiracy—all of which the Court dismissed.

Most notably, the Court also declined to expand Maine's public nuisance doctrine to apply to this case, reaffirming that private parties—here the hospitals—have standing to bring a public nuisance claim only if it has suffered a "special legal injury" from a public nuisance. The hospitals argued that their financial losses in treating opioid-related patients constituted such an injury and gave them standing.

The Court disagreed, concluding these costs were "a subset of the injuries to the public occasioned by the increase in opioid misuse" and "no different *in kind* from the injury to the public." Because the court ruled the hospitals did not have standing to assert a public nuisance claim, it did not address whether the lawsuit even presented a valid public nuisance cause of action under Maine common law. The case was dismissed.

In its ruling, the court recognized the devastating toll of the opioid crisis and also made clear that extending public nuisance liability to manufacturers and distributors for the hospitals' economic losses had no basis in Maine law. Thus, Maine joined a growing number of states in rejecting efforts to distort public nuisance doctrine.

North Carolina Court Reaffirms Legislative Authority to Limit Noneconomic Damages

In August 2025, the **North Carolina Court of Appeals** unanimously upheld a state law that sets a maximum amount of noneconomic damages in medical liability actions.

Since 2011, North Carolina law has limited the amount recoverable for subjective awards for noneconomic damages, such as those intended to compensate for pain and suffering, in medical liability lawsuits. That limit, which applies in cases involving ordinary negligence and is adjusted every three years for inflation, currently stands at $656,730.

In ***Mohebali v. Hayes***, the plaintiff, who suffered injuries under the care of an at-home birthing physician, was awarded $7.5 million in noneconomic damages. The trial court reduced that award in accordance with the statutory limit, prompting the plaintiff to challenge the law's constitutionality as an infringement on the right to a jury trial.

On appeal, the court reaffirmed the presumption of constitutionality afforded to legislative enactments, citing a 2025 North Carolina Supreme Court decision emphasizing that courts must defer to duly enacted statutes unless proven unconstitutional beyond a reasonable doubt. The court further explained that the plaintiff's cause of action arose in 2019—seven years after the legislature adopted the damages cap—meaning no preexisting or vested right was impaired. Accordingly, the lower court's application of the cap did not violate the plaintiff's constitutional right to a jury trial.

ATRA submitted an *amicus* brief emphasizing the legislature's effort to balance fair compensation for plaintiffs with the broader public interest in ensuring the availability and affordability of healthcare. The brief noted that the cap applies only to noneconomic damages, leaving economic damages uncapped to ensure plaintiffs can be made whole for quantifiable losses. The court appropriately recognized and upheld this legislative balance between predictability for defendants and fairness for injured patients.

Utah High Court Rejects 'Phantom Damages' Windfalls

The **Utah Supreme Court** recently addressed whether plaintiffs can recover "phantom damages"—the difference between a hospital's list prices and the amount it receives as full payment from insurance or a third-party.

In the case at issue, the plaintiff sought to recover the hospital's full billed charges following a car accident, even though her insurer had paid about half that amount. The trial court did not permit the jury to learn the amount actually paid for treatment, applying the collateral source rule to bar its admission. Rulings such as these lead to damage awards for medical expenses that are far more than amounts routinely paid for such care—the actual market value—leading to unjustifiably inflated awards.

In an *amicus* brief, **ATRA** explained that "[t]he usual role of the collateral source rule is not, and should not be, to authorize inflated awards for medical expenses." The **Utah Supreme Court** agreed, delivering a practical and balanced ruling. The Court clarified that while the collateral source rule prevents a reduction in a plaintiff's recovery based on third-party payments, it "does not alter the fundamental principle that special damages are limited to the actual loss resulting from the injury."

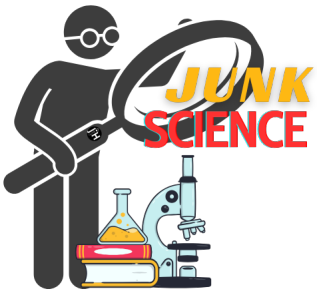
In other words, plaintiffs may recover their actual medical costs, not hypothetical or inflated amounts that were never paid by anyone. The Court's decision appropriately balanced the need to fully compensate plaintiffs for genuine losses while preventing unjust windfalls at defendants' expense.

Closer Look

THE FIGHT AGAINST JUNK SCIENCE HEATS UP UNDER RULE 702

This December marks the two-year anniversary of the Federal Rules Committee adopting a heightened standard for expert evidence and strengthening judges' gatekeeping responsibilities. Since the implementation of the amended Rule 702, judges across the country have begun to rise to the challenge.

ATRF has long been a staunch supporter of applying rigorous scientific standards before evidence is admitted in court and has consistently warned against the questionable science underpinning much of today's mass tort litigation.



In 2025, several circuit courts fully embraced the heightened standards, reinforcing the integrity of expert testimony and keeping junk science out of their courtrooms. Yet, despite this encouraging progress, some courts have resisted reform — continuing to allow unreliable expert evidence to fuel abusive and profit-driven litigation. Junk science remains a central tactic in the trial lawyer playbook, driving the mass tort machine. Judges must remain vigilant in enforcing Rule 702 and upholding their critical role in curbing mass tort abuse.

All Eyes on Circuit Courts

Over the past two years, district courts have grappled with the amended Rule 702 and, in many cases, have been hesitant to fully embrace its heightened standards without clear direction from the circuit courts. In 2025, a handful of circuits provided that much-needed guidance — clarifying and reinforcing the judiciary's critical gatekeeping role. Others are poised to issue rulings in 2026.

Positive Developments

Earlier this year, the **Federal Circuit** made clear that "the gatekeeping function of the court" requires judges "to ensure that there are sufficient facts or data for [the expert's] testimony." Where that factual basis is lacking, the Court held, the opinions are "unreliable and therefore inadmissible under Rule 702."

> ***"The gatekeeping function of the court" requires judges "to ensure that there are sufficient facts or data for [the expert's] testimony."***
>
> – United States Court of Appeals for the Federal Circuit

Before 2025, the **Eighth Circuit** had long adhered to the misconception that "[o]nly if an expert's opinion is so fundamentally unsupported that it can offer no assistance to the jury must such testimony be excluded." That changed this year in ***Sprafka v. Medical Device Business Services Inc.***, where the Court held that expert opinions "lack reliability" and must be excluded when they are not grounded in an adequate factual basis.

The **Fifth Circuit** also reinforced Rule 702's heightened requirements in multiple cases this year, holding that "expert testimony may not be admitted unless the proponent demonstrates to the court that it is more likely than not that the proffered testimony meets the admissibility requirements set forth in the rule." The Court further emphasized that expert evidence must rest on sufficient facts and data and that judges must

act as gatekeepers to ensure that expert opinions "reflect a reliable application of principles and methods to the facts of the case."

Finally, the **Ninth Circuit** issued a mixed bag of decisions in 2025. Historically, the Court had instructed that Rule 702 should be applied liberally and that doubts about admissibility should favor admission. But in ***Engilis v. Monsanto Co.***, the **Ninth Circuit** abandoned that approach, declaring that "'[s]haky' expert testimony, like any expert testimony, must still be 'admissible,'" and that this requires the trial court to determine whether it satisfies Rule 702's threshold requirements. The Court further cautioned that a trial court "cannot abdicate its role as gatekeeper" or "delegate that role to the jury."

Following the *Engilis* decision, just one month later, the Court took a step back in ***Thomas v. Smith's Food & Drug Centers***. The Court entirely overlooked the 2023 amendment and instead observed that "The Ninth Circuit has placed great emphasis on Daubert's admonition that a district court should conduct this analysis 'with a liberal thrust favoring admission.'" The Court took a surprisingly narrow view of the gatekeeping role that judges are only "supposed to screen the jury from unreliable nonsense opinions, but not exclude opinions merely because they are impeachable."

Courts' Failure to Embrace Gatekeeping Role

FOURTH CIRCUIT

Despite significant progress in other jurisdictions, the **Fourth Circuit** took a disappointing approach in ***Sommerville v. Union Carbide Corp.*** (Aug. 2025). In overturning the district court, the appellate court incorrectly held that "questions regarding the factual underpinnings of the [expert witness's] opinion affect the weight and credibility of the witness's assessment, not its admissibility." This reasoning undermines the gatekeeping function established by Rule 702 and improperly shifts the burden to juries to sift through unreliable expert testimony — effectively inviting junk science into the courtroom.

ELEVENTH CIRCUIT

The **Eleventh Circuit** is reviewing a problematic lower court's decision in ***Lang v. Sig Sauer, Inc.*** Here, in addressing a post-trial motion, the court reiterated its prior opinion that arguments asserting that experts' causation opinions lacked sufficient factual basis merely "go to the weight of that expert's testimony, not its admissibility," and did not consider whether the requirements of Rule 702(b) were met. Instead, according to the court, "the proper remedy to Defendant's critiques of Plaintiff's experts' testimony was to allow Defendant to vigorously cross-examine Plaintiff's experts and for the Court to carefully instruct the jury on Plaintiff's burden of proof, as was done at trial."

How Will This Impact Mass Tort Litigation?

Regardless of the product involved, the trial bar's playbook remains the same. Plaintiffs' lawyers pour millions of dollars into advertising campaigns in plaintiff-friendly Judicial Hellholes® to recruit potential claimants. They also rely heavily on both traditional and social media to amplify their narratives — often spreading inaccurate, speculative, or scientifically unsupported claims through sympathetic outlets.

To further legitimize these claims, they frequently enlist so-called experts to present misleading or litigation-driven science, both in the courtroom and in the court of public opinion. When credible scientific evidence fails to support their causation theories, they manufacture "new" science to fill the gap and then use it to influence juries and shape public perception. This troubling pattern perpetuates misinformation and distorts the fairness of the civil justice system.

Adopting and enforcing a standard for expert evidence to be more likely reliable than not under Rule 702 is essential to disrupting this cycle. Strong gatekeeping will help ensure that litigation is grounded in sound science — not speculation or assertions that are more likely to be wrong because they do not meet the preponderance of the evidence standard — and prevent mass torts from being fueled by baseless accusa-

tions and junk science.

Tylenol Multi-District Litigation

Never is rigorous judicial gatekeeping more critical than now, as the Second Circuit considers a highly consequential case involving allegations that prenatal use of Tylenol can cause autism in children.

In re: Acetaminophen — ASD-ADHD Products Liability Litigation is a multidistrict proceeding examining claims that acetaminophen use during pregnancy leads to autism spectrum disorder (ASD) and attention deficit hyperactivity disorder (ADHD) in children. In December 2023, **Judge Denise Cote** of the **U.S. District Court for the Southern District of New York** exemplified the gatekeeping role required under Rule 702 by excluding testimony from the plaintiffs' experts and dismissing the litigation.

Judge Cote recognized the "great public health significance" of the litigation, noting its potential implications for families and communities nationwide. In dismissing the case, she found that the plaintiffs' five expert witnesses relied on existing studies but failed to use that literature to form reliable, discrete opinions. Instead, they applied a broad "transdiagnostic" approach that conflated ASD, ADHD, and other neurodevelopmental disorders—without demonstrating that their methodology was generally accepted in the scientific community.

> ***"Despite the identified risk of genetic confounding, Dr. Baccarelli gives short shrift to the issue. The discussion in his reports is incomplete, unbalanced, and at times misleading."***
>
> – Judge Denise Cote

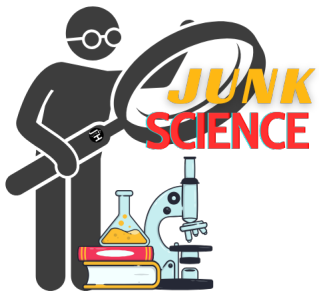
Addressing one of the plaintiffs' principal experts, **Dr. Andrea Baccarelli**, **Judge Cote** wrote that "despite the identified risk of genetic confounding, Dr. Baccarelli gives short shrift to the issue. The discussion in his reports is incomplete, unbalanced, and at times misleading."

Judge Cote's decision in the Tylenol litigation is a model of what Rule 702 was designed to achieve: ensuring that expert testimony admitted in federal court is based on sound science, not speculation. She rightly concluded that the plaintiffs' experts "failed to show their methodology is generally accepted" and "downplay[ed] studies undercutting their thesis while emphasize[d] those that align with it."

SECOND CIRCUIT APPEAL

The case is now on appeal before the **Second Circuit**. Oral arguments were initially scheduled for early October but were delayed until late November 2025 after a new Mount Sinai study was conveniently published just in time for the appellate briefing — and prominently promoted by **Health and Human Services Secretary Robert F. Kennedy Jr.** at the White House.

In the wake of the court being inundated with "new" research and information following the White House and HHS announcements, oral arguments were postponed until November.



Dr. Diddier Prada led the Mount Sinai study which was co-authored by several regulars from the plaintiffs' expert bench, including Harvard's Dr. Andrea Baccarelli. While plaintiffs and federal agencies point to the study as new evidence, it suffers the same flaws Judge Cote already identified in the multidistrict litigation. Dr. Baccarelli's "navigation guide" methodology was rejected by the court as cherry-picked and unreliable.

The study's other two authors are **Ann Z. Bauer**, a consultant for plaintiffs' lawyers who has vocally promoted her theories on social media throughout the litigation, and **Dr. Beate Ritz,** who served as a plaintiffs' expert for lawsuits related to Paraquat, baby food and Roundup.

Notably, the Mount Sinai paper initially claimed causation between Tylenol use in pregnancy and

autism, but amid peer review, softened claims instead to "association." While offering no new scientific consensus, this litigation theory woven into academia has, however, successfully armed plaintiffs' lawyers with a "fresh" citation for their latest arguments.

The onus now falls on the Second Circuit to follow the lead of other circuits and safeguard the integrity of expert testimony by strictly enforcing amended Rule 702. The Court should affirm Judge Cote's well-reasoned decision and reject the plaintiffs' attorneys' reliance on unsupported "junk science."

THE PROLIFERATION OF PRIVATE RIGHTS OF ACTION

Are there enough ways to sue? Apparently not because **ATRF** has observed a significant uptick in the inclusion of new private rights of action in legislation. This has occurred not only in states with a history of such laws, but also in states known for their leadership on tort reform.

These proposals can be especially problematic when they discard or significantly relax key elements of claims (such as causation), eliminate the need for a person to have experienced an injury to sue, provide for statutory (minimum) damage awards rather than reimburse actual losses, or add on recovery of attorneys' fees that are typically not available in ordinary civil litigation.

In many instances, legislation prohibits or mandates business practices but, rather than having the government enforce these requirements, as one would expect, the proposals deputize private individuals to do so. This approach takes law enforcement out of the hands of public officials and, instead, places it in the hands of plaintiffs' lawyers. Handed the gift of an entitlement to, for example, $5,000 in statutory damages per violation of a law plus their attorney's fees, you can bet that their entrepreneurial spirit will motivate them to find, or concoct, every lawsuit they can. Serial plaintiff and cut-and-paste complaints for any minor compliance issue can be expected.

There are many examples of private rights of action gone wrong. Some featured in this report include Prop-65 and PAGA lawsuits in California, biometric privacy litigation in Illinois, and ADA accessibility compliance claims nationwide. In sum, legislation including private rights of action can create new profit centers for lawyers, rather than solve problems.

Texas's pro-business reputation did not stop legislators this year from introducing 763 new causes of action against businesses and healthcare providers, according to **Texas Civil Justice League** tally. This number was more than double the number of private rights of action included in bills introduced in the state's last legislative session. One particularly problematic bill that crossed the finish line establishes a new cause of action against vaccine manufacturers that advertise their products in the state. That bill conflicts with federal law, violates the First Amendment, and leaves unclear how it interacts with the state's product liability laws.

In **West Virginia**, which has made great strides in recent years to shed its former reputation as a Judicial Hellhole, state senators backtracked by sponsoring 26 bills in the 2025 session that proposed expansions of liability. These bills included at least six that would have created an entirely new cause of action, according to **West Virginia Citizens Against Lawsuit Abuse**. These included bills authorizing new lawsuits against schools, state government entities and public officials, and financial institutions, among others.

Colorado lawmakers introduced 45 bills that created new private lawsuits or expanded liability under existing laws this year. More than half of those became law, according to the **Colorado Civil Justice League**. For example, the state, which is already a magnet for drive-by lawsuits claiming that restaurants and other small businesses are not fully compliant with accessibility standards, passed legislation allowing plaintiffs to either demand $5,000 for each alleged violation or $50,000 in damages for emotional harm, plus their attorneys' fees and costs. As Colorado business owners testified, the lawsuit factories that file

these claims often offer to settle for $15,000 with no regard for whether the obstacle to accessibility is resolved. Under **H.B. 1239**, the cost of settlement just skyrocketed.

Meanwhile, in **California**, "home of the private right of action," ATRF saw something new this year. Yes, the legislature considered and rejected legislation that would have given those who suffered a loss due to an extreme weather event, such as wildfire or flood, a private right of action to sue energy companies for contributing to climate change. That bill, while extraordinary, is par for the course in California. What's new is that California's personal injury bar supported a bill, enacted into law, creating a private right of action to sue themselves. In response to over-the-top billboards and use of "runners" to find people to bring lawsuits, the plaintiffs' bar supported legislation that further regulates certain misleading lawsuit advertising practices. That bill included private rights of action with statutory damages of between $5,000 and $100,000 for each violation.

The **New York legislature** has served up a smorgasbord for plaintiffs' lawyers, which includes new lawsuits against insurance companies, social media companies, and property owners. Bills also include private rights of action addressing data privacy and use of artificial intelligence technology, an action for a person who has no present injury to seek medical monitoring damages, and a bill that authorizes nonprofit organizations to enforce the state's consumer protection law. Not to be outdone by California, **New York** also has pending legislation that allows any person, government, or entity to sue any "fossil fuel industry member" that contributed to climate change for damages.

To their credit, although including new private rights of action in legislation has become increasingly common, states have often held the line. For example, most, but not all, states have rejected invitations to include new private rights of action in data privacy laws or legislation regulating use of artificial intelligence.

When legislators are presented with such proposals, they should ask a series of questions:

- Can the requirements or prohibitions in this bill be effectively, fairly, and more consistently enforced through action by government agencies and officials?
- Do those who experience actual harm because of the issue have a means to recover through existing common law or statutory actions? Does the private right of action truly fill a gap or just create another way to sue?
- Does the private right of action incentivize lawsuits by people or organizations that have not experienced an injury or without requiring proof that the conduct at issue caused harm?
- If the legislation authorizes statutory damages, if those damages are aggregated "per violation," could that unfairly threaten businesses with liability that is disproportionate to the conduct?
- Will the new cause of action primarily benefit lawyers, rather than the public?

The Making of a Judicial Hellhole:

QUESTION: **What makes a jurisdiction a Judicial Hellhole?**
ANSWER: **The judges.**

Equal Justice Under Law. It is the motto etched on the façade of the Supreme Court of the United States and the reason why few institutions in America are more respected than the judiciary.

When Americans learn about their civil justice system, they are taught that justice is blind. Litigation is fair, predictable, and won or lost on the facts. Only legitimate cases go forward. Plaintiffs have the burden of proof. The rights of the parties are not compromised. And like referees and umpires in sports, judges are unbiased arbiters who enforce rules, but never determine the outcome of a case.

While most judges honor their commitment to be unbiased arbiters in the pursuit of truth and justice, Judicial Hellholes' judges do not. Instead, these few jurists may favor local plaintiffs' lawyers and their clients over defendant corporations. Some judges, in remarkable moments of candor, have admitted their biases. More often, judges may, with the best of intentions, make rulings for the sake of expediency or efficiency that have the effect of depriving a party of its right to a proper defense.

What Judicial Hellholes have in common is that they systematically fail to adhere to core judicial tenets or principles of the law. They have strayed from the mission of providing legitimate victims a forum in which to seek just compensation from those whose wrongful acts caused their injuries.

Weaknesses in evidence are routinely overcome by pretrial and procedural rulings. Judges approve novel legal theories so that even plaintiffs without injuries can win awards for "damages." Class actions are certified regardless of the commonality of claims. Defendants are targeted not because they may be culpable, but because they have deep pockets and will likely settle rather than risk greater injustice in the jurisdiction's courts. Local defendants may also be named simply to keep cases out of federal courts. Extraordinary verdicts are upheld, even when they are unsupported by the evidence and may be in violation of constitutional standards. And Hellholes judges often allow cases to proceed even if the plaintiff, defendant, witnesses and events in question have no connection to the jurisdiction.

Not surprisingly, personal injury lawyers have a different name for these courts. They call them "magic jurisdictions." Personal injury lawyers are drawn like flies to these rotten jurisdictions, looking for any excuse to file lawsuits there. When Madison County, Illinois was first named the worst of the Judicial Hellholes last decade, some personal injury lawyers were reported as cheering "We're number one, we're number one."

Rulings in Judicial Hellholes often have national implications because they can: involve parties from across the country, result in excessive awards that wrongfully bankrupt businesses and destroy jobs, and leave a local judge to regulate an entire industry.

Judicial Hellholes judges hold considerable influence over the cases that appear before them. Here are some of their tricks-of-the-trade:

PRETRIAL RULINGS

- **Forum Shopping.** Judicial Hellholes are known for being plaintiff-friendly and thus attract personal injury cases with little or no connection to the jurisdiction. Judges in these jurisdictions often refuse to stop this forum shopping.

- **Novel Legal Theories.** Judges allow suits not supported by existing law to go forward. Instead of dismissing these suits, Hellholes judges adopt new and retroactive legal theories, which often have inappropriate national ramifications.
- **Discovery Abuse.** Judges allow unnecessarily broad, invasive and expensive discovery requests to increase the burden of litigation on defendants. Judges also may apply discovery rules in an unbalanced manner, denying defendants their fundamental right to learn about the plaintiff 's case.
- **Consolidation & Joinder.** Judges join claims together into mass actions that do not have common facts and circumstances. In situations where there are so many plaintiffs and defendants, individual parties are deprived of their rights to have their cases fully and fairly heard by a jury.
- **Improper Class Action Certification.** Judges certify classes without sufficiently common facts or law. These classes can confuse juries and make the cases difficult to defend. In states where class certification cannot be appealed until after a trial, improper class certification can force a company into a large, unfair settlement.
- **Unfair Case Scheduling.** Judges schedule cases in ways that are unfair or overly burdensome. For example, judges in Judicial Hellholes sometimes schedule numerous cases against a single defendant to start on the same day or give defendants short notice before a trial begins.

DECISIONS DURING TRIAL

- **Uneven Application of Evidentiary Rules.** Judges allow plaintiffs greater flexibility in the kinds of evidence they can introduce at trial, while rejecting evidence that might favor defendants.
- **Junk Science.** Judges fail to ensure that scientific evidence admitted at trial is credible. Rather, they'll allow a plaintiff 's lawyer to introduce "expert" testimony linking the defendant(s) to alleged injuries, even when the expert has no credibility within the scientific community.
- **Jury Instructions.** Giving improper or slanted jury instructions is one of the most controversial, yet underreported, abuses of discretion in Judicial Hellholes.
- **Excessive Damages.** Judges facilitate and sustain excessive pain and suffering or punitive damage awards that are influenced by prejudicial evidentiary rulings, tainted by passion or prejudice, or unsupported by the evidence.

UNREASONABLE EXPANSIONS OF LIABILITY

- **Private Lawsuits under Loosely-Worded Consumer Protection Statutes.** The vague wording of state consumer protection laws has led some judges to allow plaintiffs to sue even when they can't demonstrate an actual financial loss that resulted from an allegedly misleading ad or practice.
- **Logically-Stretched Public Nuisance Claims.** Similarly, the once simple concept of a "public nuisance" (e.g., an overgrown hedge obscuring a STOP sign or music that is too loud for the neighbors, night after night) has been conflated into an amorphous Super Tort for pinning liability for various societal problems on manufacturers of lawful products.
- **Expansion of Damages.** There also has been a concerted effort to expand the scope of damages, which may hurt society as a whole, such as "hedonic" damages in personal injury claims, "loss of companionship" damages in animal injury cases, or emotional harm damages in wrongful death suits.

JUDICIAL INTEGRITY

- **Alliance Between State Attorneys General and Personal Injury Lawyers.** Some state attorneys general routinely work hand-in-hand with personal injury lawyers, hiring them on a contingent-fee basis. Such arrangements introduce a profit motive into government law enforcement, casting a shadow over whether government action is taken for public good or private gain.
- **Cozy Relations.** There is often excessive familiarity among jurists, personal injury lawyers, and government officials.

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