

2026 **ATDSHOW**  
**LAS VEGAS**  
FEBRUARY 3-5



# Truck Litigation: What You Need to Know and How to Tackle Lawsuit Abuse

Pamela Bracher  
Deputy General Counsel  
American Trucking Associations  
[pbracher@trucking.org](mailto:pbracher@trucking.org)



#ATDSHOW

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## Jury Rules Against Daimler in \$160 Million Liability Verdict

Alabama Driver Paralyzed After 2022 Accident; Daimler Cites 'Strong Grounds for Appeal'

## Jury Issues \$462 Million Verdict Against Wabash After Crash

Trailer Manufacturer Says It Will Review Judgment

## Jury Awards \$220M to Texas Family Against Michelin

A New Mexico jury on Friday awarded \$220 million against Michelin North America after finding the company liable for a 2021 crash that killed three Texas family members when a tire on their Ford Excursion allegedly experienced catastrophic tread separation.

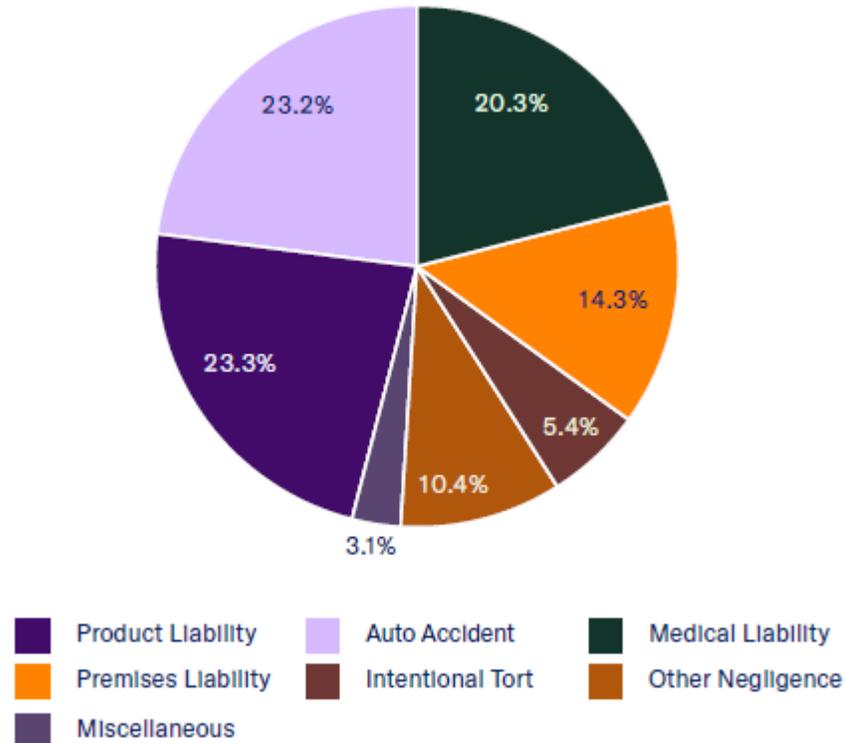
## JURY AWARDS \$329 MILLION IN TESLA AUTOPILOT WRONGFUL DEATH CASE

Source: Nuclear Verdicts: An Update on Trends, Causes, and Solutions (May 2024), U.S. Chamber of Commerce Institute for Legal Reform

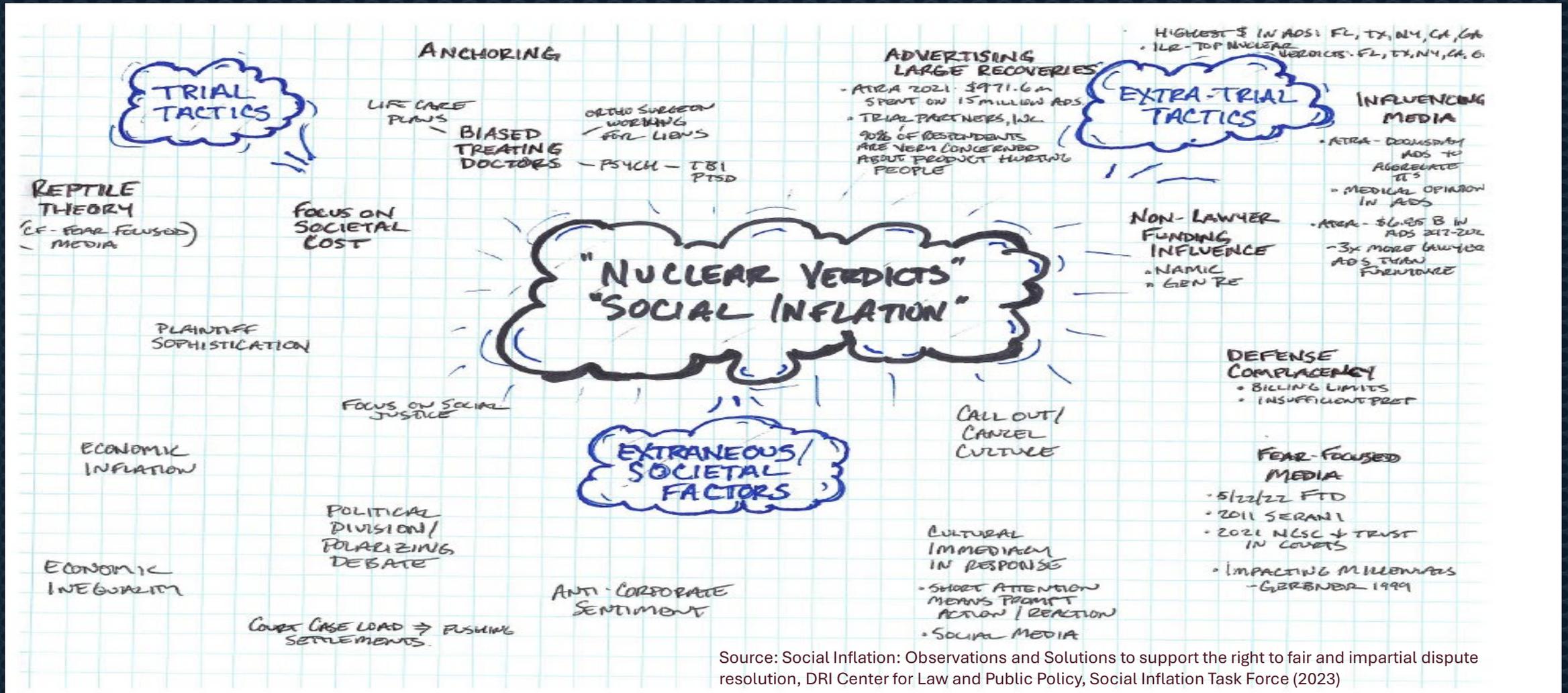
Jury Returns Defense Verdict for Daimler Truck North America in Hunter v. Daimler Truck North America LLC

Court Slashes \$462 Million Wabash Verdict to \$120 Million  
Trailer Maker Will Continue Legal Battle Over Underride Case

Figure 1: Nuclear Verdicts by Case Type, 2013 – 2022

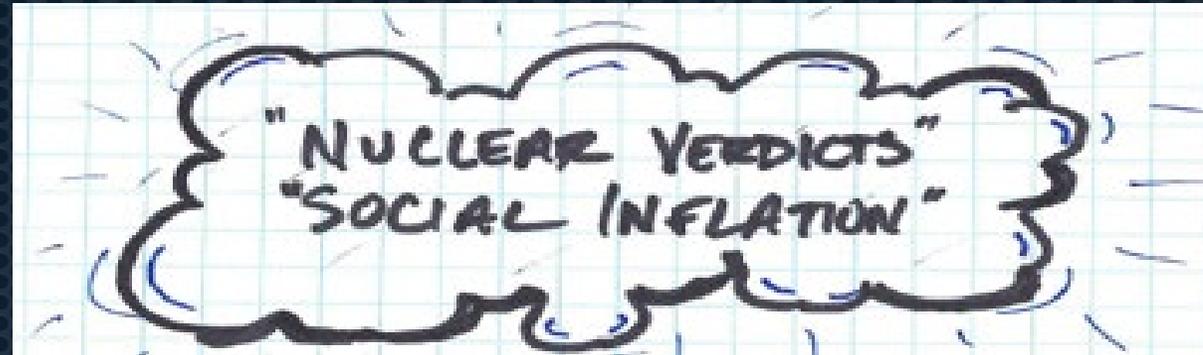


# Defining the Lawsuit Abuse Problem

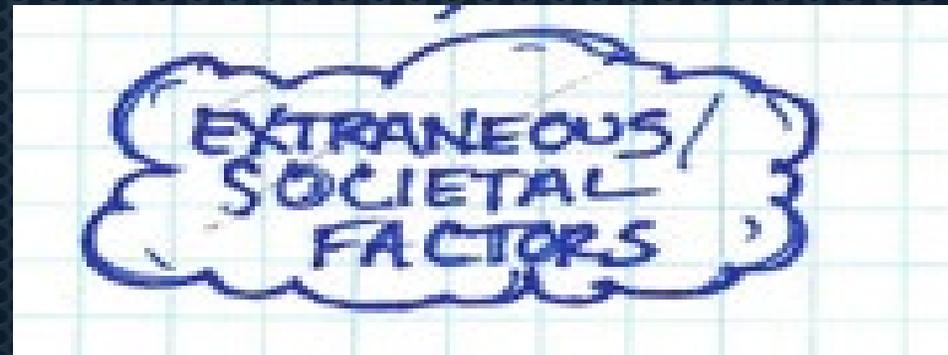


Source: Social Inflation: Observations and Solutions to support the right to fair and impartial dispute resolution, DRI Center for Law and Public Policy, Social Inflation Task Force (2023)

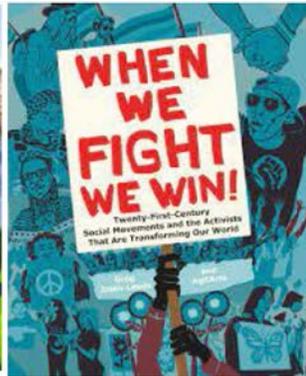
# SOCIETAL FACTORS



"NUCLEAR VERDICTS"  
"SOCIAL INFLATION"



EXTRANEOUS /  
SOCIETAL  
FACTORS



**Protect**  
**Our**  
**GUNS**  
**KIDS**  
#End Gun Violence



**Don't underestimate the power of a #Hashtag**



# Erosion of trust in institutions

2025 Edelman Trust Barometer

P. 17

## 6 in 10 Hold Grievances Against Business, Government, and the Rich

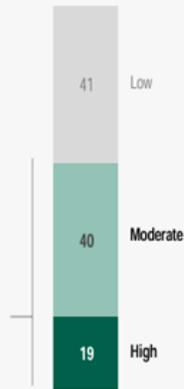
Percent who hold a low, moderate, or high sense of grievance, in the U.S.

I hold a sense of grievance because:

- Business and government serve select few
- Business and government actions hurt me
- The system favors the rich
- The rich are getting richer

My sense of grievance is moderate or higher

**59%**



Source: 2025 Edelman Trust Barometer, Trust and the Crisis of Grievance, U.S. Report  
([https://www.edelman.com/sites/g/files/aatuss191/files/2025-01/2025%20Edelman%20Trust%20Barometer\\_U.S.%20Report.pdf](https://www.edelman.com/sites/g/files/aatuss191/files/2025-01/2025%20Edelman%20Trust%20Barometer_U.S.%20Report.pdf))

2025 Edelman Trust Barometer

P. 12

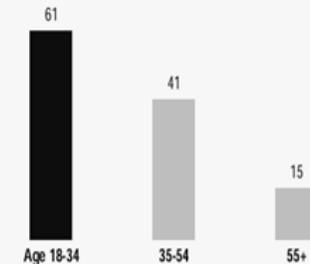
## 6 in 10 U.S. Young Adults See Hostile Activism as a Viable Means to Drive Change

Percent who say, in the U.S.

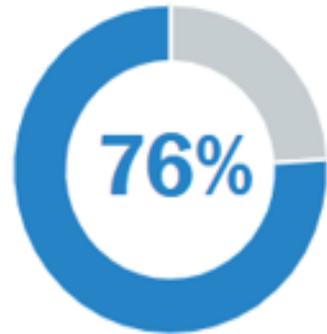
I approve of hostile activism to drive change:

- Attack people online (27%)
- Intentionally spread disinformation (25%)
- Threaten or commit violence (20%)
- Damage public or private property (23%)

**37%** (net)



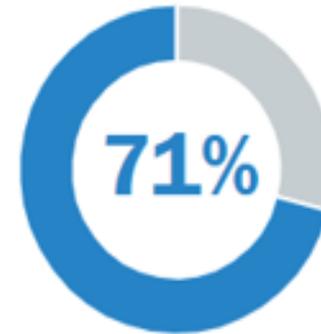
# JUROR PREDISPOSITIONS: A Growing Trend in Corporate Distrust



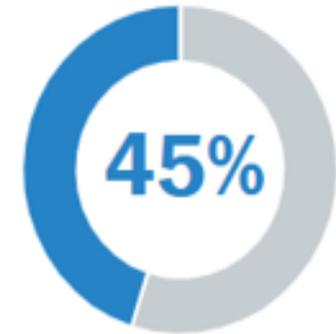
Believe corporate executives lie and cover up



Believe it takes "billions" to send a message to corporations



Do not believe there should be caps on jury awards



Will ignore the judge's instructions

Source: Magna Legal Services, Nuclear Verdicts & Combatting the Reptile: Juror Biases & Trends, Rachel Colangelo, Ph.D., ATA Trucking Legal Forum (July 2024)

# “REPTILIAN JURORS”

In today’s world, juries need to be the “guardians of the community” by **forcing companies to change their bad behavior with large damage awards**



Source: Magna Legal Services, *Nuclear Verdicts & Combatting the Reptile: Juror Biases & Trends*, Rachel Colangelo, Ph.D., ATA Trucking Legal Forum (July 2024)

# Strategy Changes in the Plaintiff Bar since early 2000's

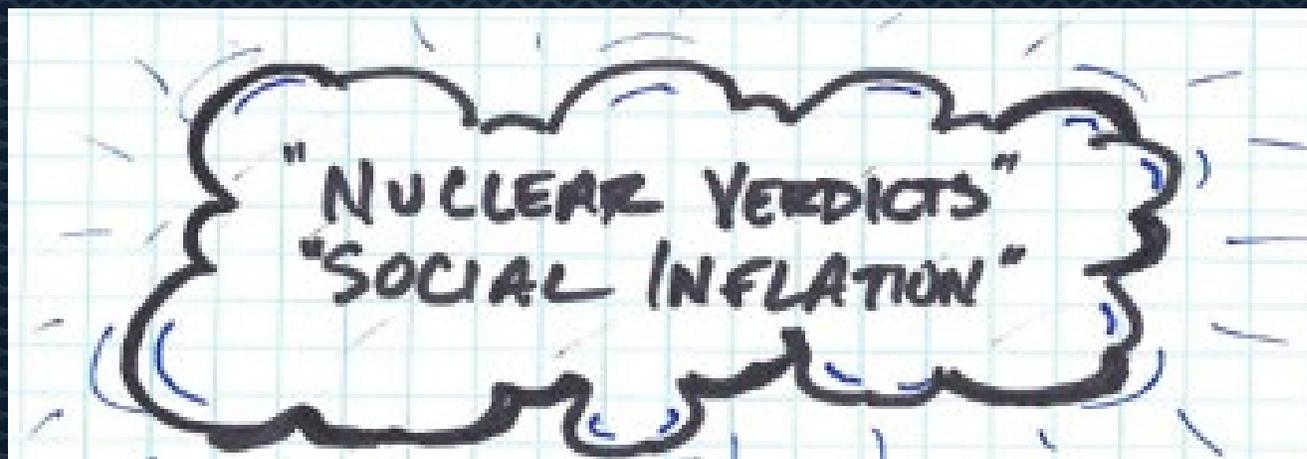
The plaintiff bar responded to the setbacks of 2001 to 2009 with a change in strategy that included the following elements:

Plaintiff Bar Strategy Changes	Examples
Effective use of human psychology	Sympathy for plaintiff replaced by anger at "faceless" corporate defendants putting profits over people  Reptile theory  Psychodrama  Anchoring
Cooperation	Education and sharing of techniques in conferences, workshops, podcasts and books  Collaboratively working as co-counsel
Specialization	Acquisition and deployment of deep technical knowledge of accident factors
Migration	Movement from practice areas with diminishing potential for large awards to richer profit center practice areas  Movement from insurance company employment to plaintiff bar

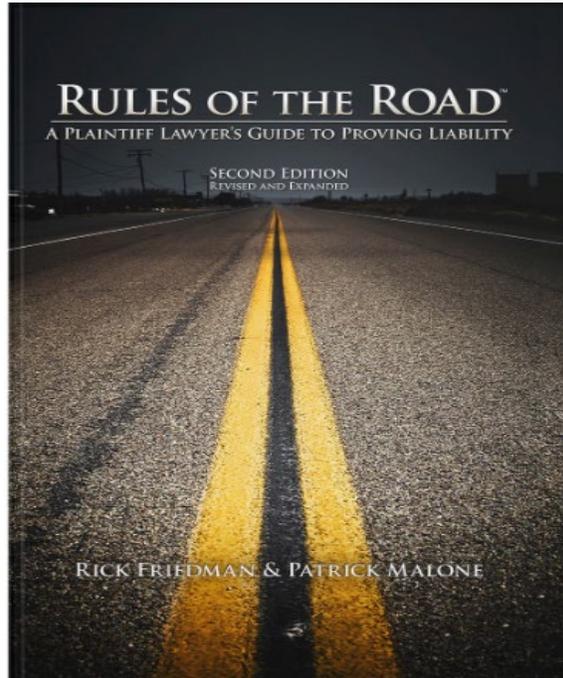
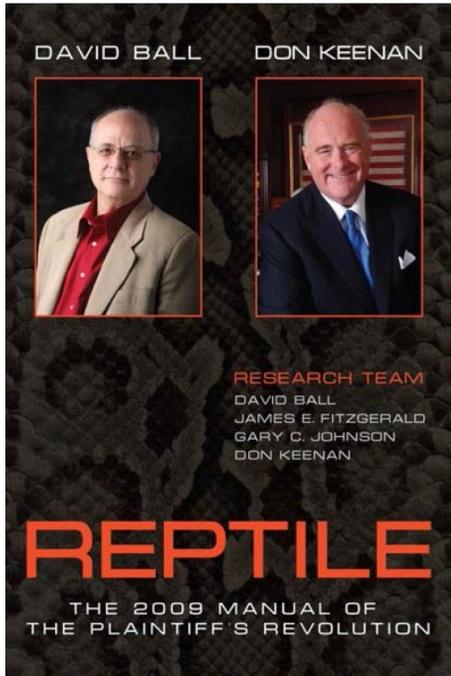
In contrast to the plaintiff bar, which regularly develops and deploys dramatic strategies that exploit human psychology, the defense bar is more conservative and less willing to take risks lest it lose a verdict. Such conservatism is also the result of the contrasting compensation structure. Contingency fee arrangements incentivize plaintiff attorneys to be aggressive and creative, whereas defense counsel is salaried or retained on an hourly basis. In a podcast on nuclear verdicts, Paul DeGiulio, SVP of Allied World Insurance Company, reported that "this is no secret—defense lawyers are much more academic, rule-following, [and] not willing to bend the rules."

Source: The Scourge of Social Inflation, R Street Analysis, R Street Policy Study No. 247, December 2021 at page 4.

# TRIAL TACTICS



# Who is going to believe a con artist? Everyone, if she is good – Andy Griffith



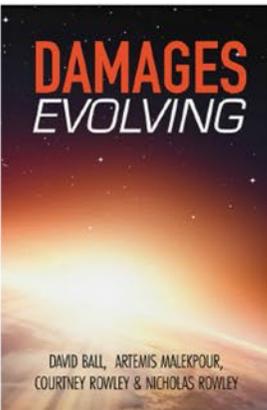
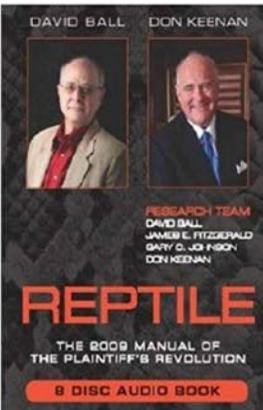
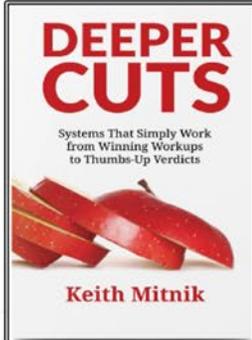
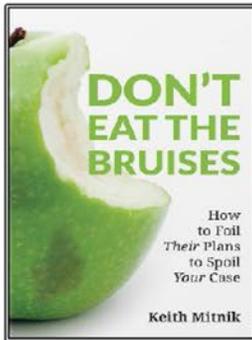
- It is not science, it is linguistics.
- It is brilliant at harnessing the cultural zeitgeist of corporate mistrust.
- It is about Rules. It is the Rules that give it bite. And it is fed by systemic company problems.



"We must never stop putting more tools in our toolboxes and sharpening and cleaning the tools we already have."

Nick Rowley

Running With The Bulls



the\_national\_trial\_lawyers



BIG TRUCK & AUTO SUMMIT

August 11 - 14, 2024

Chicago, Illinois | Renaissance Chicago Downtown



FEATURED SPEAKERS



Brent Goudarzi  
Goudarzi & Young, L.L.P.



Joe Fried  
Fried Goldberg LLC



Mike Morse  
Mike Morse Law Firm



John Givens  
The Cochran Firm

# Deposition is Trial

Wednesday

1:40 PM - 2:20 PM

**Track One**

The Master Plan: Knocking the Defense Off the Fence in Key Depositions



Joe Fried

Annual Symposium September 27-29, 2023



ACADEMY OF TRUCK  
ACCIDENT ATTORNEYS

Friday

9:00 AM - 9:40 AM

**Track Two**

Deposition is Trial - Getting the Clips that Win



Sach Oliver



ALEX HEATON · DAVID YARBOROUGH · SEAN CLAGGETT

**\$44.6 Million Verdict In Amazon DSP/Agency Case**

1. Litigating the independent contractor defense. How we established Amazon's control of the DSP [and its driver] early in the deposition phase and highlighted the absurdity of Amazon's independent contractor defense.

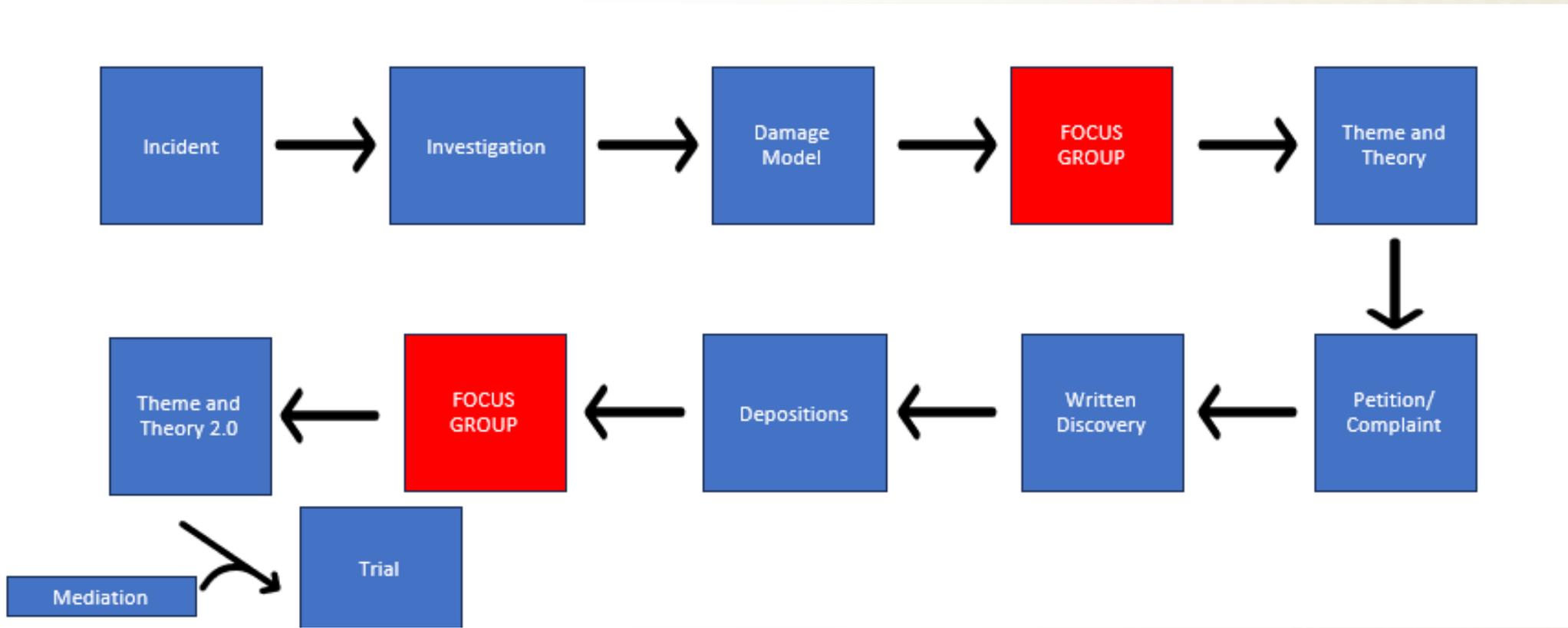


TRIAL LAWYERS  
UNIVERSITY

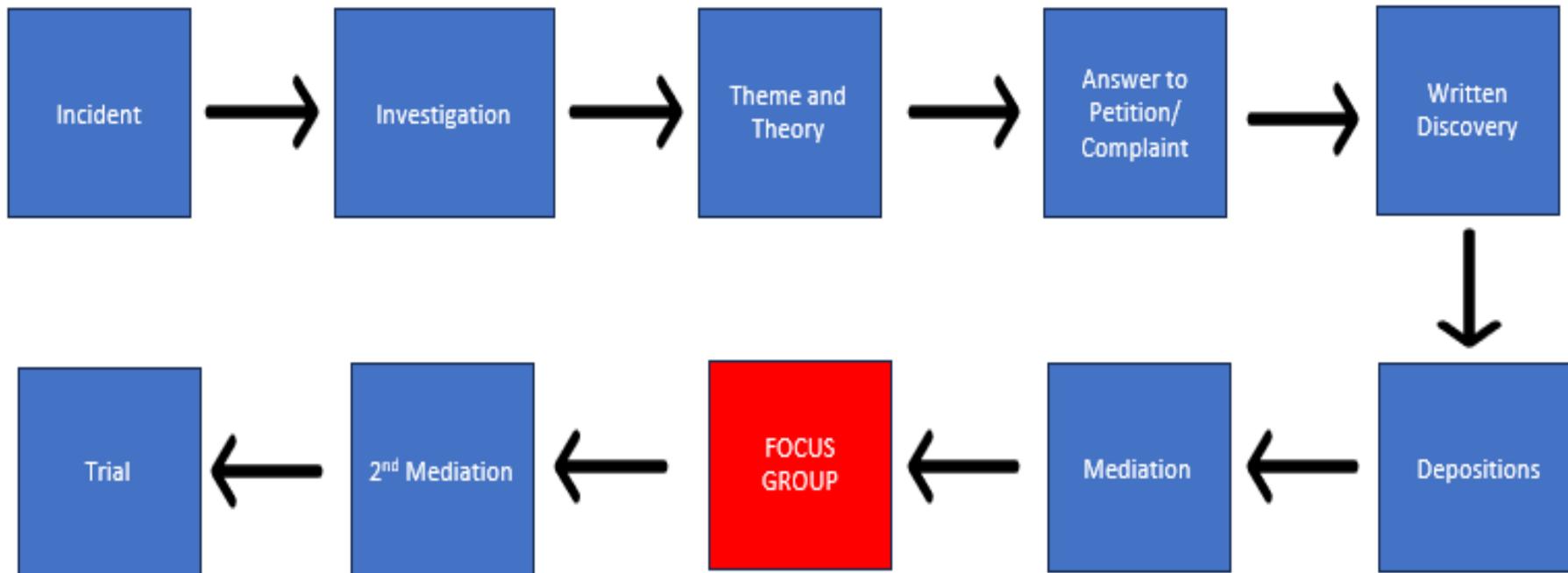


APRIL 30, 2024 1:30 PM |

# How the plaintiff bar might work up a case



# How the defense bar might work up a case



# Anchoring Bias is a sales and marketing gold mine



Using one high priced product or service option to make other choices seem cheaper or a better choice by comparison.



Tying tunes, images, or slogans to a product or service



Tying a personal feeling or attitude to a product or service



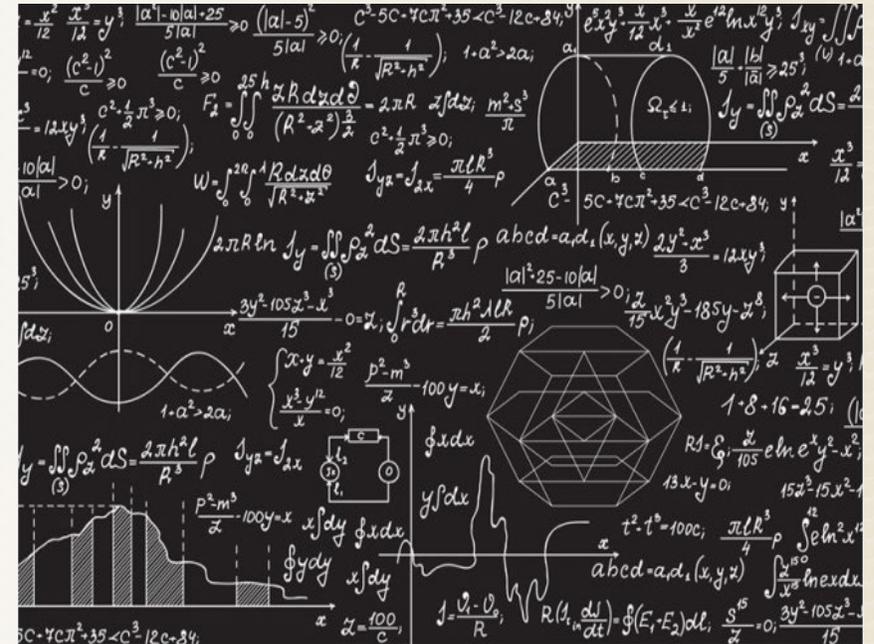
# How Do Juries Award Damages?



Source: Reyna, V. F., Hans, V. P., Corbin, J. C., Yeh, R., Lin, K., & Royer, C. (2015). *The Gist of Juries: Testing a Model of Damage Award Decision Making*. *Psychology, Public Policy, and Law*, Psynet, posted: Jun 22, 2015

# Courts have embraced wildly differing approaches to quantifying pain & suffering

- **Per diem arguments:** the attorney is permitted to break down the suffering into smaller units of months, days, minutes but not convert to a dollar amount (“plaintiff has 2,225,000 minutes of suffering left in his life, award what you think is fair”) (2 states)
- **Lump Sum arguments without per diem** calculations as support (“please award \$4,000,000 for pain and suffering) (9 states)
- **Lump Sum arguments with per diem** calculations as support (58,240 hours left to be awake and in pain, multiplied by \$7.50/hour, supporting an award of \$436,000) (24 states)
- Some states **forbid** per diem or lump sum arguments (4 states)
- Some states leave closing arguments to the “**sound discretion**” of the trial court (8 states)
- **No clear** appellate or statutory law (4 states)



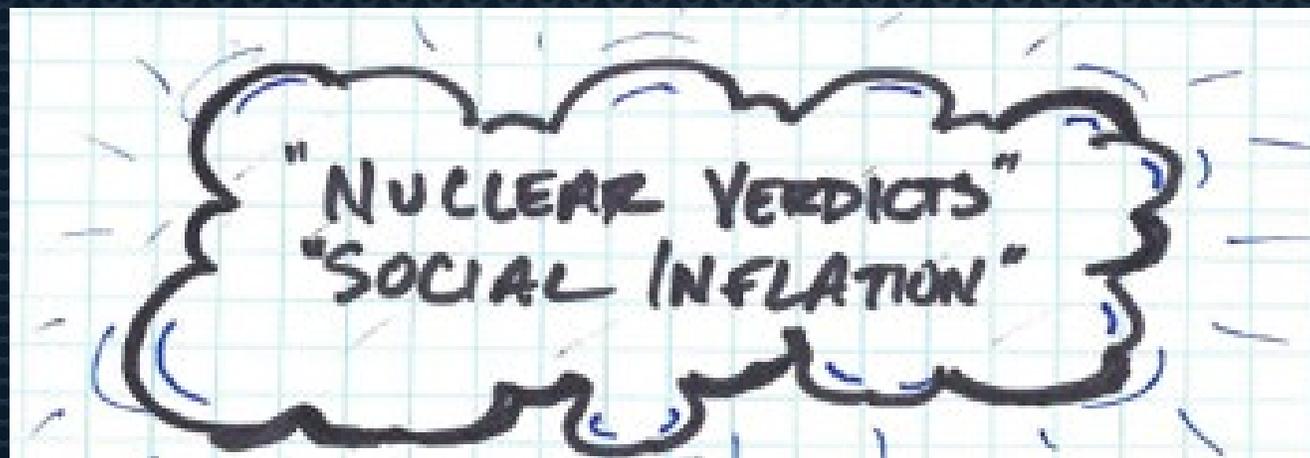


EXAMPLE (Medicaid Patient)	(Current Practice) Billed Charges	(Proposed) Paid Charges
Medical Expenses	\$500,000	\$125,000
Pain and Suffering	\$1,000,000	\$250,000
Punitive Damages	\$3,000,000	\$750,000
<b>GRAND TOTAL</b>	<b>\$4,500,000</b>	<b>\$1,125,000</b>
Attorney Fees (40%) before costs	\$1,800,000	\$450,000



*By using "billed" charges rather than "paid" charges, total costs are inflated*

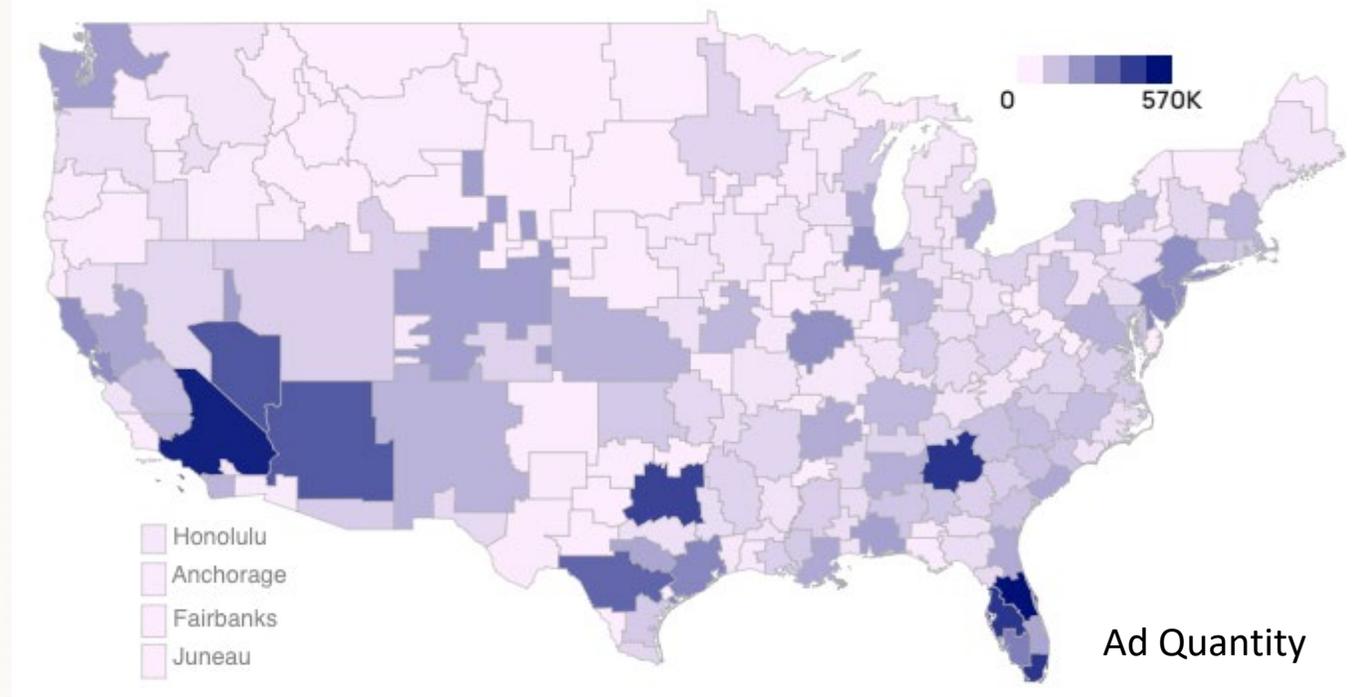
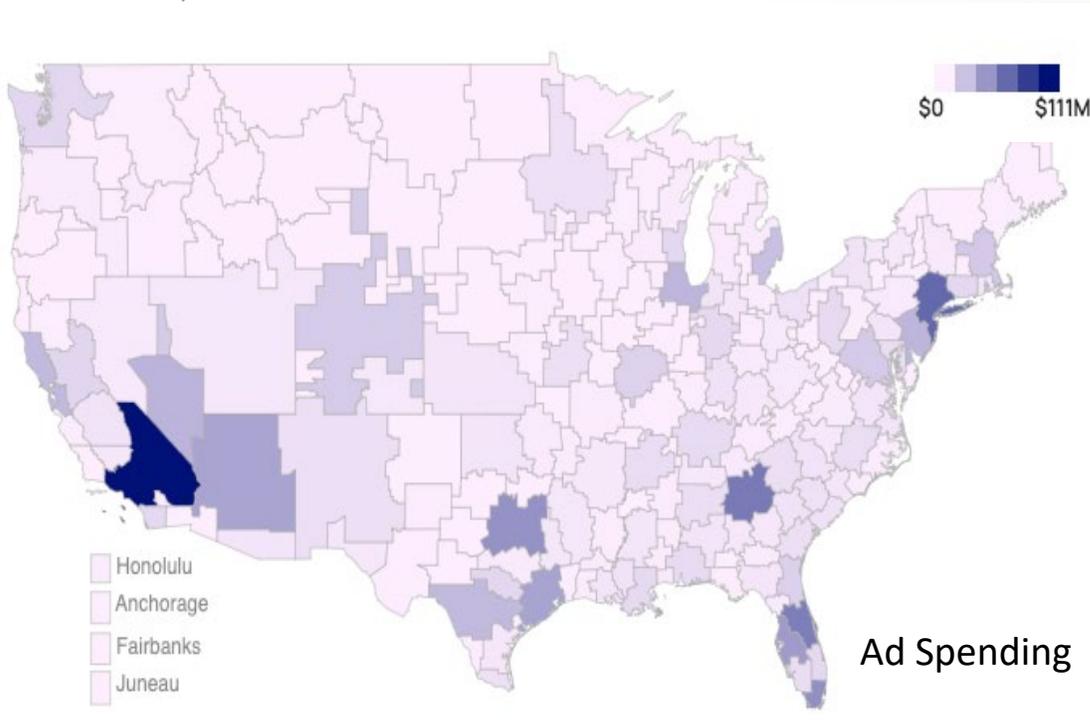
# EXTRA-TRIAL TACTICS





# Legal Services Advertising: Top Markets 2024

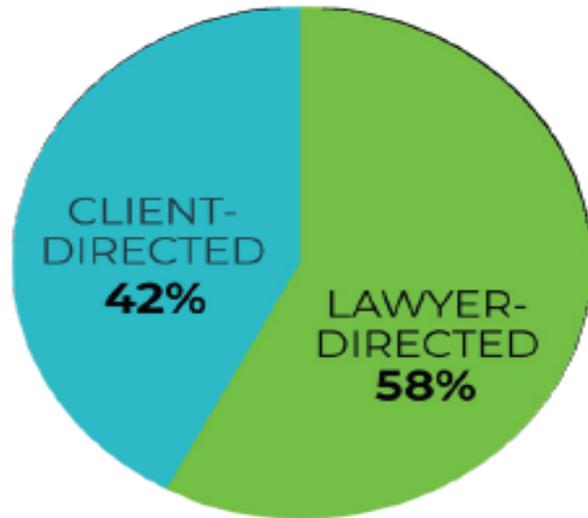
Source: Legal Services Advertising in the United States,  
2020-2024, American Tort Reform Association



Los Angeles - \$165 Mil.  
New York - \$101 Mil.  
Atlanta - \$88 Mil.  
Orlando - \$80 Mil.  
Miami - \$70 Mil.  
Dallas - \$70 Mil.  
Tampa - \$59 Mil.  
Phoenix - \$58 Mil.  
Houston - \$56 Mil.  
Las Vegas - \$45 Mil.

Orlando - 775k Ads  
Los Angeles - 725k Ads  
Atlanta - 659k Ads  
Miami - 640k Ads  
Tampa - 633k Ads  
Dallas - 622k Ads  
Phoenix - 558k Ads  
Las Vegas - 547k Ads  
San Antonio - 488k Ads  
Ft. Myers - 411k Ads

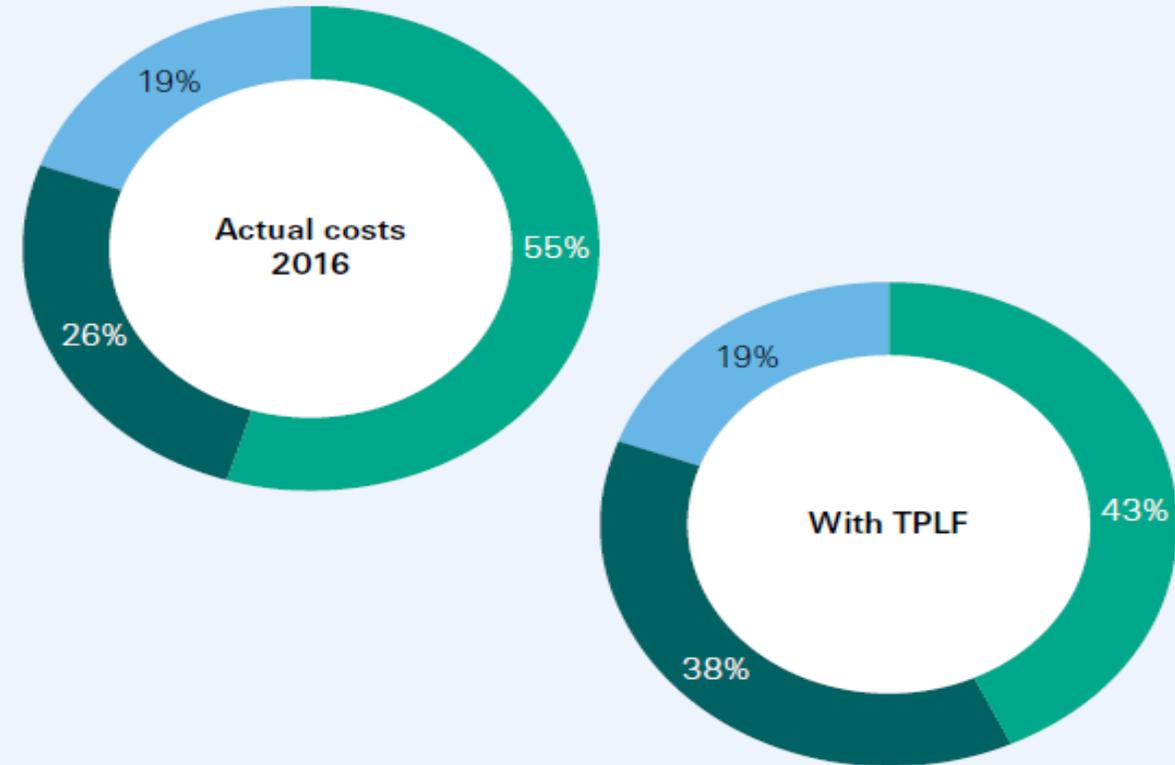
# Selling lawsuits: Third Party Litigation Financing



**2024 Commitments  
By Type Of User**

Source: The Westfleet Insider: 2024 Litigation Finance Market Report, Westfleet Advisors

Distribution of tort system costs without TPLF (left) and with TPLF (right)

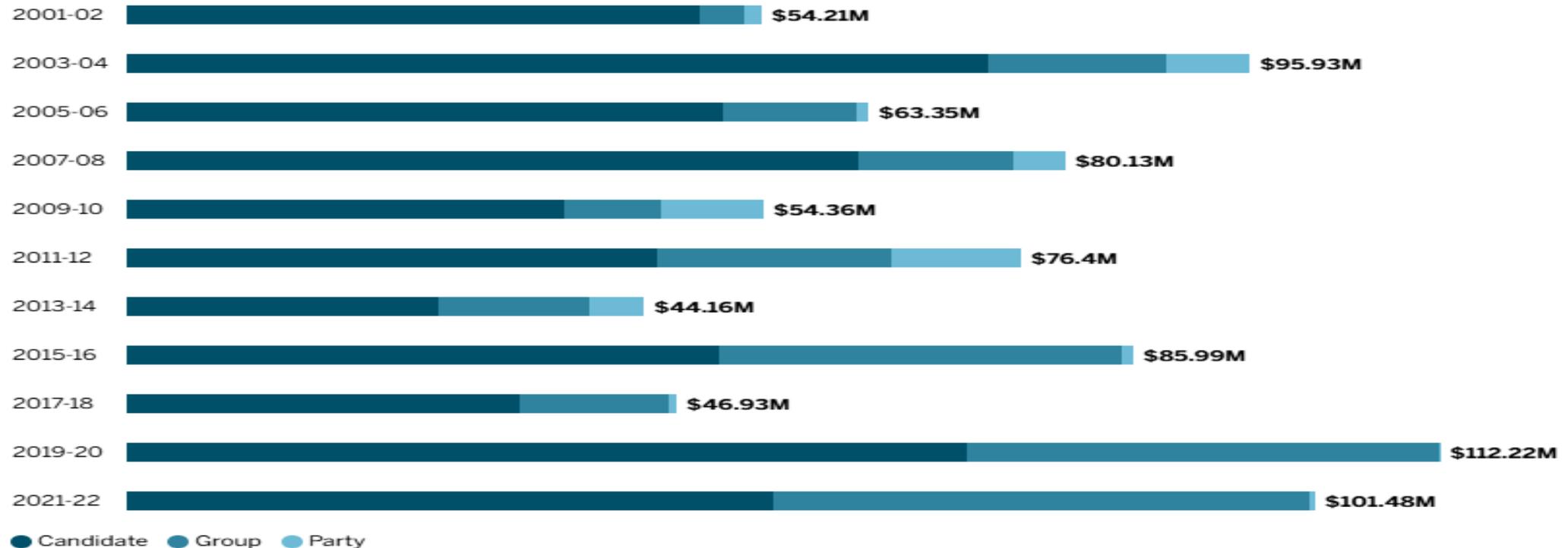


■ Plaintiffs' compensation ■ Plaintiffs' legal costs (incl. TPLF)  
■ Defendants' legal costs

Source: US Litigation Funding and Social Inflation: The Rising Costs of Legal Liability, Swiss Re Institute (December 2021)

# JUDICIAL ELECTIONS

## State Supreme Court Election Spending by Cycle (2022 Dollars)



**Note:** All figures have been converted to 2022 dollars. Because of this inflation adjustment, totals in this graph are different than figures published in previous reports.

**Source:** Data from previous cycles drawn from earlier reports in the Politics of Judicial Elections series, as well as updated candidate fundraising and television spending estimates from OpenSecrets and Kantar Media/CMAG.

# Defining the Lawsuit Abuse Solution



New allies in age-old fight

It takes TIME

DATA is KEY



# Is Public Opinion Always Against Us?

## Majority of Americans Want Reforms

 **86%**

Agree that state and federal lawmakers should address abuses of the legal system.

 **88%**

Believe there should be full transparency and disclosure of all the parties who have a financial stake in a civil lawsuit.

## Key Findings

Plaintiff lawyer advertising is pervasive

**89%**

Have seen or heard lawyers advertising on TV, billboards, social media, radio, or web search results.

Third parties investing in lawsuits

**59%**

Do **not** know that third parties, like hedge funds or foreign entities, often secretly finance litigation in exchange for a share of the jury award or settlement.

Plaintiff lawyers keeping a substantial stake

**47%**

**Not** aware the plaintiff lawyer in a civil lawsuit is likely to receive a significant portion of the jury award or settlement.

Increasing costs for everyone

**65%**

**Not** aware every household pays an estimate “tort tax” that is an average of \$3,621 per American household per year.

## Most Americans Agree Certain Plaintiff Lawyer Tactics Increase the Cost of Insurance and Everyday Items.

 **69%**

Believe the practice of **third party litigation funding (TPLF)<sup>1</sup> and jury anchoring<sup>2</sup>** will increase the overall cost of home, auto, and business insurance for all Americans, **66%** believe these tactics will increase the cost of everyday items.

 **68%**

Agree that excessively **high jury awards** (e.g. nuclear verdicts—those above \$10 million) will increase the overall cost of home, auto, and business insurance for all Americans.

**Imminent reforms are needed to reduce costs and improve the availability and affordability of insurance for all.**

## KEY FINDINGS

Lawyer Advertising Can Be Misleading

**67%**

Agree state and federal lawmakers should put restrictions on lawyer advertising to ensure that they’re not misleading to help reduce the number of lawsuits filed.

**68%**

Agree the advertising of verdicts with [purported] large payouts desensitizes people to high jury awards.

Third Party Litigation Investors Should Disclose Involvement

**77%**

Agree allowing foreign investors to be third party investors in civil claims and litigation could present a threat to national security.

**78%**

Agree allowing foreign investors in civil claims and litigation in the U.S. should be prohibited.

Lawyer Tactics Impact Juries

**75%**

Agree the practice of jury anchoring<sup>2</sup> will increase the size of the jury awards.

**84%**

Agree plaintiff lawyers should support their suggested damage awards with factual evidence.

Source: APCIA and Munich Reinsurance (Munich Re US) survey (January and September 2024)

# Economic Benefits of Tort Reform

**Table 5: States With Highest Tort Costs as % of State GDP (2022)**

State	Total Tort Costs (\$ millions)	State GDP (\$ millions)	Tort Costs as % of State GDP
	[1]	[2]	[3]
DE	\$3,122	\$90,208	3.46%
FL	\$48,179	\$1,439,065	3.35%
LA	\$7,748	\$291,952	2.65%
NY	\$53,437	\$2,048,403	2.61%
GA	\$19,932	\$767,378	2.60%
MT	\$1,729	\$67,072	2.58%
SC	\$7,554	\$297,546	2.54%
NJ	\$18,996	\$754,948	2.52%
NV	\$5,356	\$222,939	2.40%
RI	\$1,714	\$72,771	2.36%
<b>Top 10 States</b>	<b>\$167,766</b>	<b>\$6,052,282</b>	<b>2.77%</b>

Sources and Notes:

[2]: Bureau of Economic Analysis, Gross Domestic Product by state: All Industry total. Last updated: May 23, 2024.

[3] = [1] / [2].

Source: Tort Costs in America, 3<sup>rd</sup> Ed., An Empirical Analysis of Costs and Compensation of the U.S. Tort System (November 2024), U.S. Chamber of Commerce Institute of Legal Reform (ILR)

**Figure 1: Change in Long-Term Food Prices Attributed to CATC**



Source: Tort Costs in America – Commercial Auto: An Analysis of the Economic Impact of Commercial Automobile Tort Costs (October 2025), U.S. Chamber of Commerce ILR

“Okay, you've convinced me. Now go out there and bring pressure on me.”

- President Franklin D. Roosevelt

# FEDERAL LAW REFORM

## Opportunities in the 119<sup>th</sup> Congress

Litigation Transparency Act of 2025, H.R. 1109

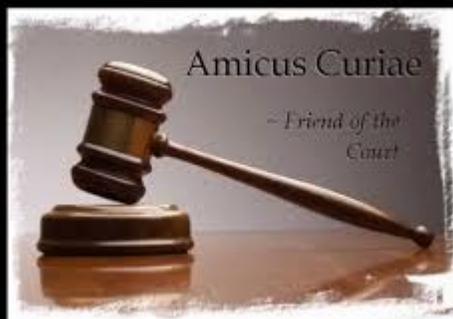
Staged Accident Fraud Prevention Act of 2025, H.R. 2662

Forum Accountability and Integrity in Roadway (FAIR) Trucking Act, H.R. 5268

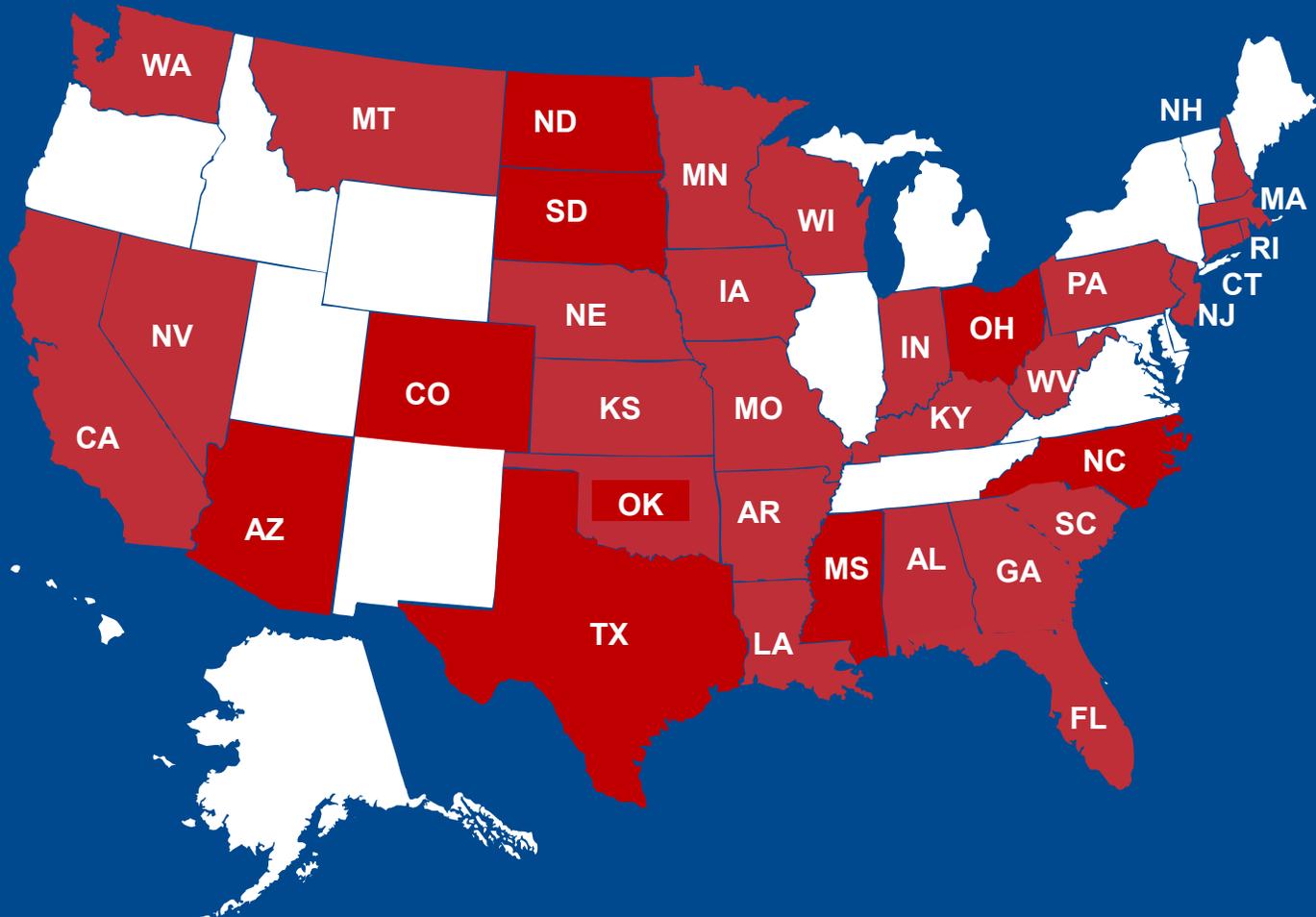
Lawsuit Abuse Reduction Act, H.R. 5258

Tackling Predatory Litigation Funding Act of 2025, H.R. 3512 (S. 1821)

# STATE LAW REFORM

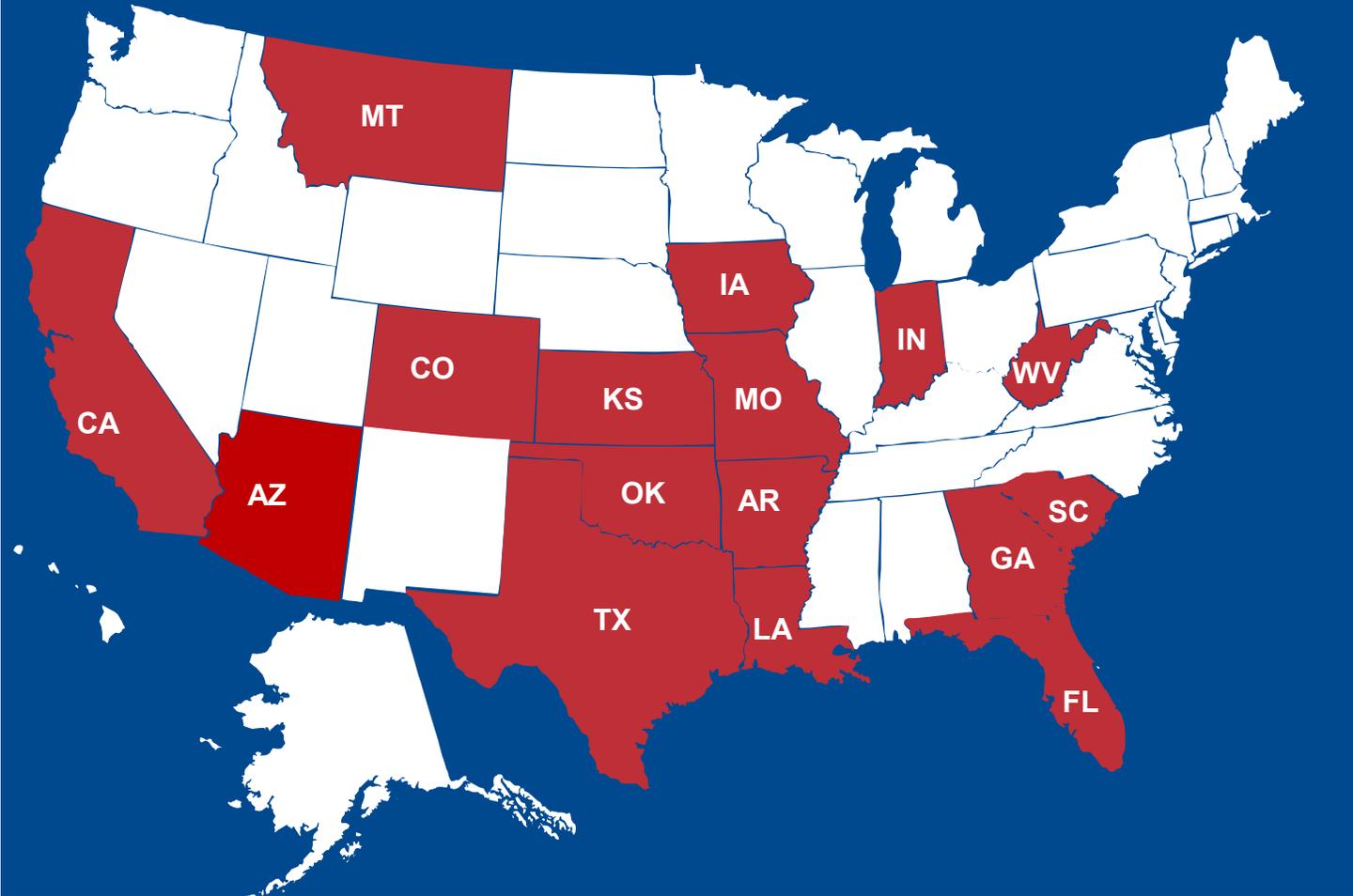


# Reform Bills Filed 2020-2025



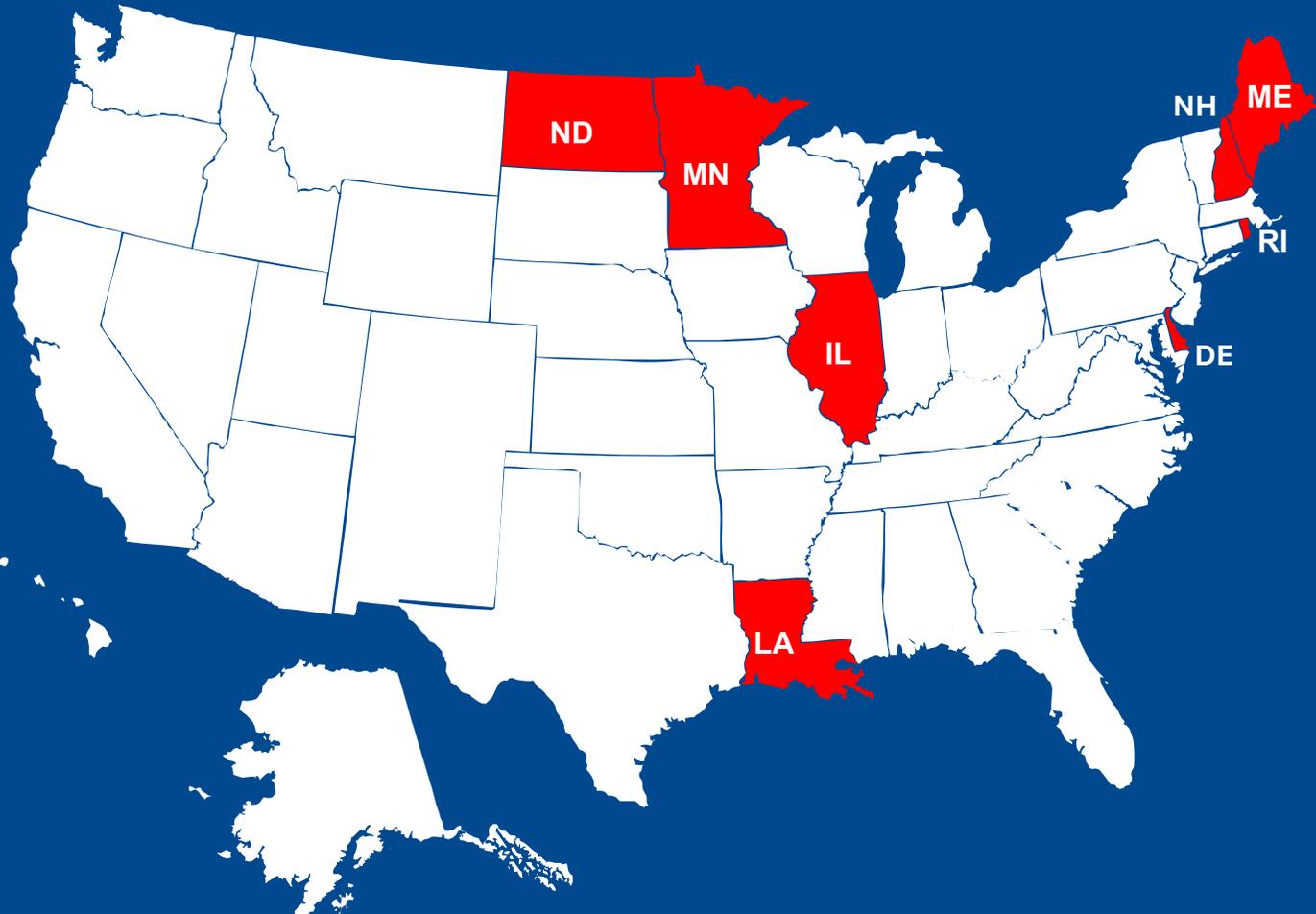
- Requiring discoverability of third-party litigation finance agreements
- Eliminating the admissibility of phantom damages
- Capping noneconomic damages
- Prohibiting unfettered jury anchoring
- Modifying joint and several liability and/or comparative fault and/or allowing allocation of fault to nonparties
- Reducing statutes of limitations
- Repealing seat belt non-use gag laws
- Precluding direct negligence claims against motor carriers (e.g. negligent hiring) when vicarious liability for the driver is admitted
- Adopting the new Federal Rule of Evidence 702 pertaining to expert witness testimony at the state level
- Tightening of standards for punitive damage awards and/or capping punitive damages
- Precluding causes of action for negligent failure to install optional equipment

# Reform Bills ENACTED 2020-2025



- Fault apportionment to nonparties
- Admissibility of seat belt nonuse
- Admissibility of paid medical specials
- Disclosures about treatment provided under a LOP
- Limited ability to pursue direct causes of negligence against the trucking company (e.g. negligent hiring) when vicarious liability for the driver is admitted
- Noneconomic damage caps
- Disclosure of third-party litigation financing agreements
- Heightened standard of proof for punitive damages
- Shortened statute of limitations
- Preclusion of negligent failure to install optional equipment against a trucking company
- Repeal of the direct-action statute (i.e., the statute permitting a plaintiff to sue a trucking company, its driver, and its insurance company)

# DEFORM BILLS ENACTED 2023-2025



For every step forward, there is a step backward. State tort **DEFORM** efforts are ongoing :

- Expanding punitive damages in wrongful death actions
- Loosening the standards for punitive damage awards
- Expanding noneconomic damage caps in wrongful death actions
- Expanding types of damages available in wrongful death actions
- Expanding the statute of limitations
- Expanding general jurisdiction laws pertaining to out-of-state corporations

**QUESTIONS?**

# LAS VEGAS

FEBRUARY 3-5



2026 | **ATD  
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