

The ILR Research Review

Featuring the latest of ILR's groundbreaking research on pressing legal issues

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01

From the Top: The President's Perspective

This edition of the *ILR Research Review* summarizes a series of reports that provide both proof-points and guideposts to support ILR's work in 2025, especially with respect to our heightened focus on state-level impact.

The empirical data we present in *Tort Costs in America* and *Nuclear Verdicts* demonstrates that the sheer costs and unpredictability of America's lawsuit system continue to rise, and that the rate of increase is accelerating.

Grim Realities documents an often-hidden vector behind some of those rising lawsuit costs, showing that third-party litigation funders are treating lawsuits as financial assets and investing billions of dollars into driving litigation, all while frequently structuring their contracts in ways that put plaintiffs' interests behind those of the funders and the attorneys.

Finally, *101 Ways* shows that not all is doom and gloom when it comes to tort costs and the factors that drive them. Our biennial user's guide to state legal reform presents a wide range of updated solutions for how state policymakers can reduce opportunities for plaintiffs' lawyer abuse, fight lawsuit inflation, and make their states more competitive for businesses and better homes for consumers.

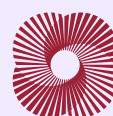
With this research in hand, we have powerful arguments to show that the civil justice system is in desperate need of change, and we have solutions that can move the needle. Let's make it happen in 2025.

Go, fight, win.

—Stephen Waguespack

President, U.S. Chamber of Commerce
Institute for Legal Reform and

Senior Vice President, State and Local
Advocacy, U.S. Chamber of Commerce



U.S. Chamber of Commerce
Institute for Legal Reform

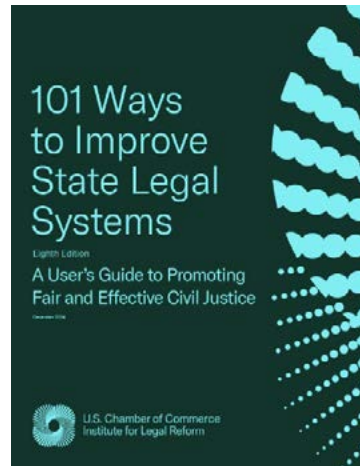
State Civil Legal Challenges Feature at ILR Summit

Shortly before the publication of *101 Ways*, ILR held the 2024 edition of our annual Summit: Law, Policy, and Politics. The Summit featured a range of discussions on issues impacting the states, including an interview with the presidents of the Michigan and Indiana Chambers about plaintiffs' bar attempts to expand liability; a conversation between the attorneys general of Utah, West Virginia, and Pennsylvania about civil justice priorities in their states, moderated by the attorney general of Alabama; and a discussion between in-house and outside counsel on the latest trends in municipality litigation.

U.S. Chamber Launches Interactive Tort Costs Map

To provide a one-stop-shop for retrieving the essential data from *Tort Costs in America*, ILR partnered with the U.S. Chamber's Strategic Advocacy and Digital teams to produce an interactive map of how tort costs show up in each state. The map can be found on the U.S. Chamber's website, [accessible at this hyperlink](#).

101 Ways to Improve State Legal Systems—Eighth Edition



December 2024

Authors: Cary Silverman and Christopher E. Appel, Shook, Hardy & Bacon LLP

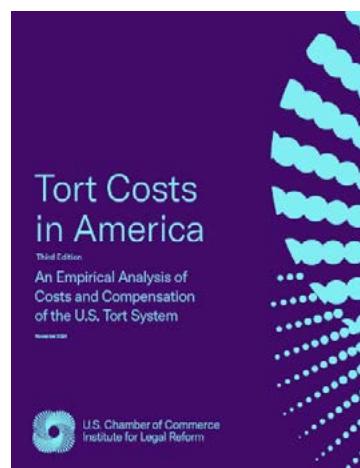
As with past editions, this paper covers the waterfront of road-tested civil justice reform options that decision makers can use to improve the legal systems in their states.

The reforms in this edition focus on five central pillars:

- Address Over-Regulation and Over-Enforcement
- Safeguard the Integrity of the Litigation Process
- Promote Rational Liability Rules
- Improve Product Liability Law
- Address Damages “Run Wild”

Additionally, this version covers developing civil justice issues such as negligent security litigation and the need for states to amend their rules in alignment with the December 2023 amendments to Federal Rule of Evidence 702.

Tort Costs in America—Third Edition



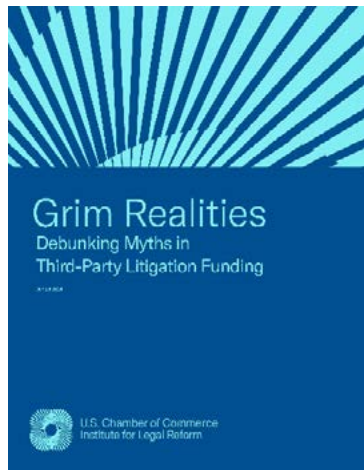
November 2024

David McKnight and Paul Hinton, The Brattle Group

The third edition of *Tort Costs in America* reveals that costs and compensation paid in the tort system reached \$529 billion in 2022, or 2.1 percent of GDP. That averaged to over \$4,200 for every U.S. household. The research also shows that if tort cost growth continues its 2016-2022 annual pace of 7.1 percent, costs will near \$1 trillion by 2030.

While the study shows the challenges of rising tort costs, it also shows meaningful reforms can reduce those costs. West Virginia lawmakers have prioritized efforts to improve their legal system, and since 2016, West Virginia's tort costs have declined over 20 percent.

Grim Realities: Debunking Myths in Third-Party Litigation Funding



August 2024

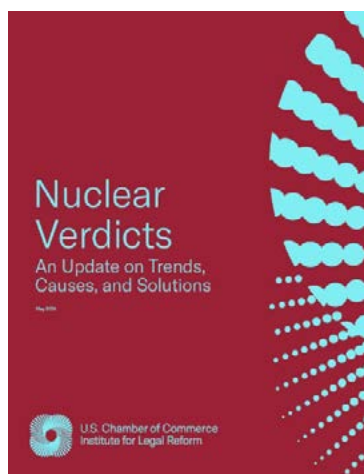
Authors: John H. Beisner, Jordan M. Schwartz, Alexander J. Kasparie, Skadden, Arps, Slate, Meagher & Flom LLP

Litigation funders perpetuate the myth that their industry is a benign force that enhances access to justice. However, as ILR's *Grim Realities* research reveals, this narrative is far from the truth.

We give powerful examples of how funders can use the terms of their contracts to control litigation in a manner that prioritizes funder profits over the interests of the plaintiffs themselves. We also document instances of third-party litigation funding (TPLF) serving as an avenue for foreign entities to advance their interests in secret, which has prompted concern from lawmakers.

TPLF poses significant challenges to the proper functioning of civil justice, and after years of advocacy by ILR and others, policymakers are increasingly confronting the problem.

Nuclear Verdicts: An Update on Trends, Causes, and Solutions



May 2024

Authors: Cary Silverman and Christopher E. Appel, Shook, Hardy & Bacon LLP

This edition of ILR's research on nuclear verdicts examines 1,288 verdicts worth \$10 million or more between 2013 and 2022. We find that nuclear verdicts dropped off significantly during the pandemic, but quickly rebounded to near-record highs by Q3 of 2021.

We also show that California, Florida, New York, and Texas produce half of the nation's nuclear verdicts, and that product liability nuclear verdicts are increasing in size especially quickly.

The paper diagnoses a range of nuclear verdict drivers, including trial lawyer advertising, TPLF, and certain plaintiffs' lawyer tactics, and recommends solutions that policymakers can implement.

Momentum Grows for Federal, State TPLF Reform

By the end of 2024, Louisiana, Indiana, and West Virginia had passed TPLF safeguard legislation, joining Montana and Wisconsin and building momentum for 2025. At the federal level, legal reform champions in Congress had introduced two bills addressing TPLF safeguards, while a third continued to circulate. This momentum was buoyed by a Government Accountability Office report, issued in December, that clearly spelled out some of the dangers of TPLF. Separately, in November, the Department of Justice's Foreign Agents Registration Act (FARA) Unit signaled that certain foreign-funded TPLF would come under greater scrutiny and, in October, the federal Advisory Committee on Civil Rules announced that it would explore a potential TPLF disclosure rule. Taken together, these developments demonstrate the increasingly widespread concern about TPLF among policymakers, and their willingness to take action.

Nuclear Verdicts Data and Trial Tactics on Display

In June 2024, shortly after the release of this paper, ILR Managing Director and Senior Vice President for Strategy Oriana Senatore joined Bob Tyson and Ashley Fetyko, both partners at Tyson & Mendes, for a webinar diving into the nuclear verdicts data and the trial tactics that defendants can employ to mitigate the chances of a nuclear verdict. The webinar garnered 260 attendees from the defense bar and the business community.

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