



sedgwick⁺

LIABILITY LITIGATION

Liability litigation observations and trends

Summer 2025

Overview

In this fifth installment of our analysis of liability claims litigation trends and practices, we provide an update on the effects of tort reform across the country, as well as the continuing battle to overcome the legal challenges the industry has faced over the previous years.

Tort reform activity

2025 has been a busy year for tort reforms. Georgia led all states with the most comprehensive tort reform, while many others, including South Carolina, Louisiana and Oklahoma, passed less ambitious tort reforms. However, there were several setbacks, and Florida had to fight off a well-organized attempt to reverse key provisions of their landmark tort reform of 2023.

FLORIDA TORT REFORM REVISITED

Florida's Tort Reform Act of 2023 (House Bill 837) has now been law for a little over two years and has already made significant improvements for those who live and do business there. The Florida Chamber of Commerce recently celebrated the two-year anniversary by highlighting some of the successes arising from House Bill 837:

- Auto insurance costs are dropping, with major companies filing for rate reductions between 6% and 10.5%.
- Litigation has dropped by nearly 30% from peak levels.
- Questionable auto glass claims fell 46% from 2023 to 2024.

Marathon Strategies, in their 2025 edition of "Corporate Verdicts Go Thermonuclear," cite comprehensive tort reform in Florida for the "marked decline" in nuclear verdicts, indicating Florida was "the number two state for nuclear verdicts from 2009 to 2022 but dropped to number seven in 2023 and number 10 in 2024."

Forces that oppose the 2023 Tort Reform Act, or those that feel it may have swung the pendulum too far toward the defendant, submitted legislation that would deteriorate and reverse some of the important changes. House Bill 947 would reverse a key clause of HB 837 that would allow inflated billed medical damages to once again be presented in court. More significantly, House Bill 1551 would reinstate "one-way" attorneys' fees in insurance cases that incentivized frivolous lawsuits and drove up insurance costs.

Two additional bills, House Bill 451 and House Bill 1437, would reverse other key reforms, such as raising post-judgment interest rates and allowing attorney fees in personal injury protection claims. However, Gov. Ron DeSantis, who championed the 2023 tort reform changes, indicated he would likely veto these four bills should the legislature forward them to his desk for signature. All four bills, as of mid-June 2025, have been indefinitely postponed and/or withdrawn from consideration.

GEORGIA TORT REFORM

Another state with a history of making the American Tort Reform Association's (ATRA) Judicial Hellhole list is Georgia, whose presence the last seven years has culminated in the number one ranking the last two years. Similar to Florida, Georgia passed landmark tort reform legislation in April 2025, with Gov. Brian Kemp calling it "a victory for the people of our state who for too long were suffering the impacts of an out-of-balance legal environment." At the center of the tort reform legislation were two bills: Senate Bill 68 and Senate Bill 69.

Senate Bill 68 contained the most changes with notable reforms:

- Limits the ability to make reference to or elicit testimony regarding a specific amount of damages to a jury, also known as "anchoring."
- Eliminates duplicate attorney's fees.
- Adds a seat belt defense in auto accidents.
- Limits medical damages to the reasonable value of medically necessary care.
- Allows bifurcating liability from damages in most scenarios.

However, in what may be the most extensive changes, Senate Bill 68 changes the rules for premise liability/negligent security cases that would address lawsuit abuse that has plagued the business environment in Georgia for many years. Most notably, apportionment of fault must be made to 1) the owner/occupier, 2) any third person whose wrongful conduct was a cause of the injury and 3) any other person to whom fault otherwise should be apportioned.

If the jury fails to apportion a reasonable degree of fault to the third person whose wrongful conduct was the cause of the injury, then the trial court can set aside the verdict of the jury and order a retrial of liability and damages. There is a rebuttable presumption that fault is unreasonably apportioned if the total percentage of fault apportioned to all third persons for their wrongful conduct is less than the total percentage of fault apportioned to all owners/occupiers who were not engaged in wrongful conduct.

Claims professionals will need to ensure their investigations provide answers for several key factors, including:

- Establishing "status" on premises, such as invitee, licensee or trespasser.
- Gathering evidence of crime reports in the area, specifically within 500 yards of the premise, and the owner/occupier's knowledge of them.
- Understanding any interactions the owner/occupier had with any third parties who committed wrongful conduct (known as particularized warning).
- Inspecting for any physical conditions on the premise that create a greater risk for wrongful conduct.
- Knowing what constitutes a felony and misdemeanor in that jurisdiction.
- Having evidence of when law enforcement (including the calling of 911) was notified relative to the timing of the injury or wrongful conduct.
- Collecting evidence of all security measures that were in place at the time of the injury.

Georgia's Senate Bill 69, the Georgia Courts Access and Consumer Protection Act, regulates third party litigation financing (TPLF) practices in Georgia. TPLF involves individuals or entities providing financial support to parties in lawsuits in exchange for a right to payment based on the case's outcome. There are two main components of the new law:

- Section 3 requires disclosure and discovery of litigation funding agreements. This section went into effect immediately on April 21, 2025.
- Section 2 requires registration of all financiers and prohibits third party financiers from directing or making decisions on lawsuit strategy. This section goes into effect Jan. 1, 2026.

Senate Bill 68 and Senate Bill 69 are expected to have a positive impact on Georgia's business environment.

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OTHER NOTABLE TORT REFORM ACTIVITY

Louisiana has taken a few steps forward with tort reform that will impact the business environment:

- House Bill 434 changes the “No Pay, No Play” threshold up to \$100,000.
- House Bill 450 modifies the legal doctrine, known as the Housley presumption, to place the burden of proof regarding injury causation on the plaintiff.
- House Bill 436 prohibits undocumented immigrants in the country illegally from collecting general damages in a car accident.
- House Bill 431 changes the state’s tort law from a pure comparative fault system to a modified comparative fault system where a plaintiff must be less than 51% at fault before they can recover damages. This change brings Louisiana in alignment with the majority of other U.S. states.
- Senate Bill 231 prevents “phantom damages” by limiting recoverable medical expenses to only the amount that is paid rather than the amounts billed.

The South Carolina Senate passed a reform bill related to the state’s liquor liability laws, which had resulted in many local bars and restaurants closing down and significant increases in insurance premiums for those who continued to sell alcohol on their premises.

Oklahoma passed two tort reform bills after completing a study earlier in the year that assessed the true cost of current legislation. Those bills were Senate Bill 453, which placed caps on non-economic damages, and House Bill 2619, which required third party litigation funding transparency.



Litigation conditions and drivers

The liability litigation landscape in the U.S. continues to be difficult with little sign that it will moderate. The current state of liability litigation appears to center around public sentiment, lack of trust and an anti-corporate viewpoint. It is a condition the plaintiffs' bar has seized on much earlier than the defense bar, and they are far ahead in understanding how to wield influence. The result is an environment where:

- Anti-corporate sentiment is pervasive.
- Attorney representation rates are increasing.
- Legal system abuse and the frequency and severity of nuclear verdicts are increasing.
- The defense and claims industry is suffering from "brain drain."

ANTI-CORPORATE SENTIMENT

In 2025, anti-corporate sentiment is evolving and becoming more complex. It is enflamed when the corporation involved is in the insurance industry. For example, a recent Emerson College poll found that 41% of voters aged 18-29 find the United Healthcare CEO's alleged killer's actions either somewhat or completely acceptable. When comparing this to the 68% of overall voters who think the actions of the alleged killer are unacceptable, it suggests shifting societal attitudes from the youngest registered voters, which is where many states randomly select citizens for jury duty.

ATTORNEY REPRESENTATION RATES

Driving down any road in the U.S., you will pass multiple roadside billboards with trial attorneys promising to "get you the money you deserve," or highlighting a multi-million or even billion-dollar result on behalf of their client. It is an aggressive form of advertising that has proven very effective. Roadside billboards, the most iconic emblem of an aggressive plaintiffs' bar, are just the beginning of an "all channels" approach to gaining new clients. Attorneys are promising large and fast payouts on television and radio, and are now advertising on social media apps like TikTok, YouTube, Instagram and X (formerly Twitter).

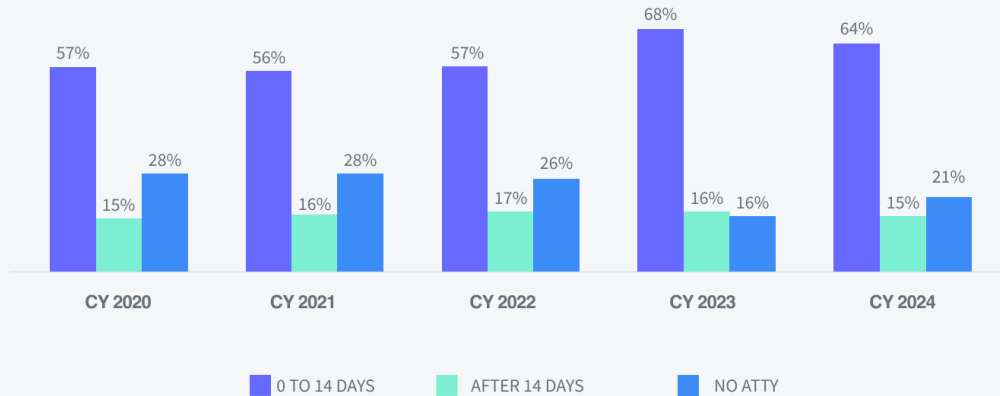
A 2024 Lexis Nexis report cited a study that found 85% of people in an auto accident were approached by at least one attorney following the accident, and 60% were approached by two or more attorneys. From that same survey, additional insights were gleaned from those who decided to retain attorneys. The top three reasons to hire an attorney were:

- To have professional support and ensure the claims process went correctly (35%)
- To be protected and ensure fair treatment (20%)
- To ensure the best financial outcome (16%)

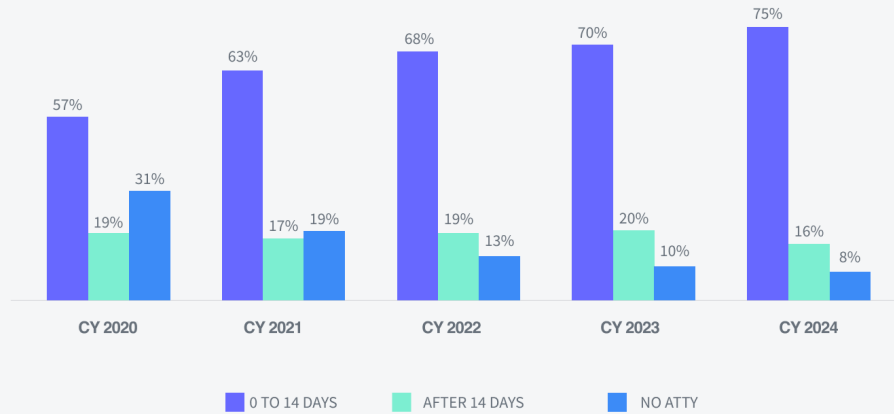
64% of general liability claimants and **75%** of auto liability claimants have attorney representation in place within two weeks of initial claim assignment.

Additionally, the personal injury space has lead generation partners who aggressively pre-qualify people who have been injured and offer "live transfer" to a personal injury attorney. One such partner markets their process of generating auto accident leads from online platforms such as Google, Yahoo! or other social media platforms. Data is collected and personal injury attorneys are encouraged to have staff available for fast responses. They tout the "five-minute rule" from a study that indicates that responding within five minutes increases the chances of converting the lead into a client by 21 times. Other findings show that a one-minute response time can boost conversion rates by 391%. Allowing live transfers to a personal injury attorney can create a more positive experience compared to the frustration some experience when calling a typical insurance claims office for answers.

GL attorney representation timing stratification



AU attorney representation timing stratification



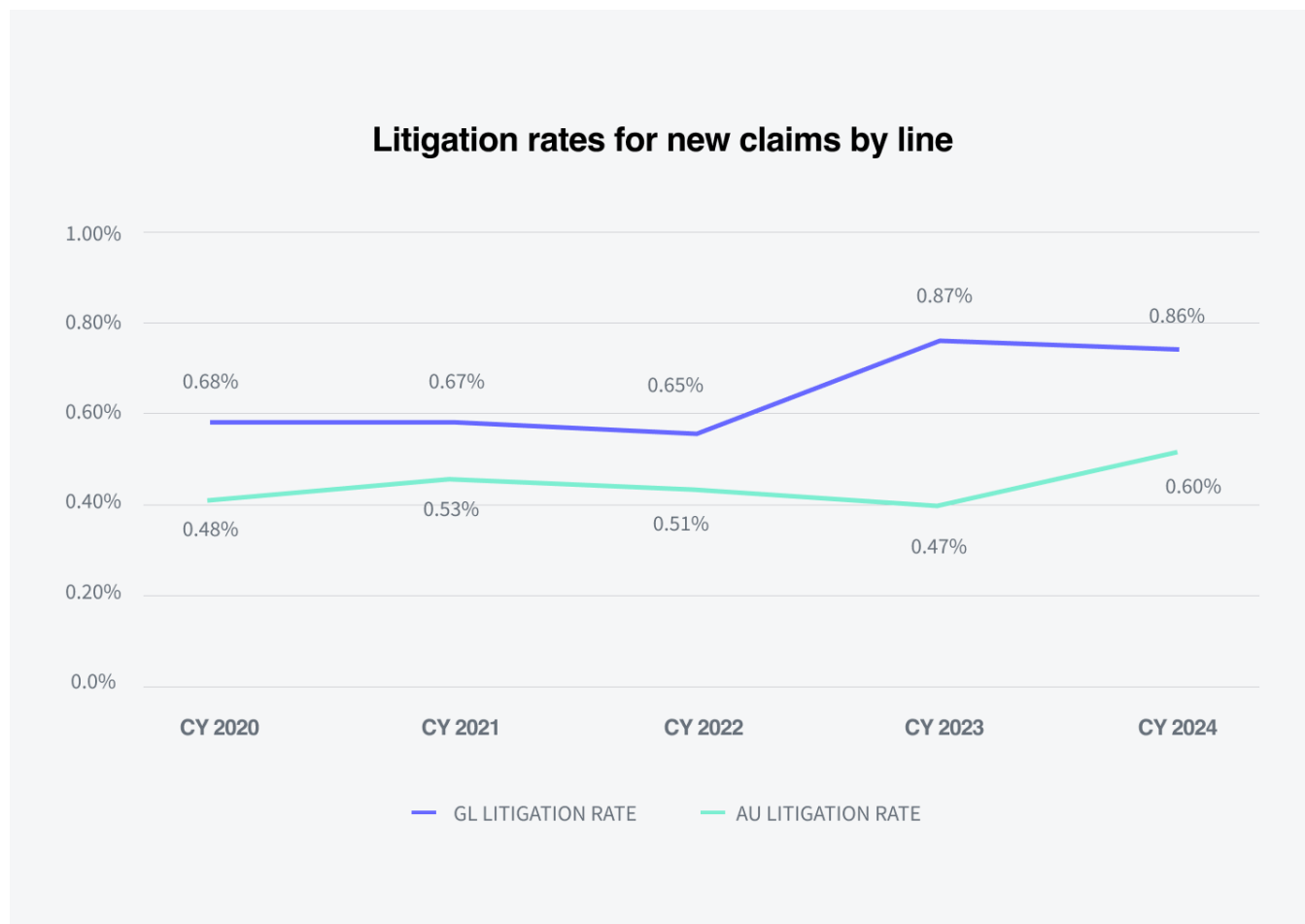
In short, plaintiff attorneys are focusing on providing a superior customer experience during the claims process. This report further explains that 15% of claimants who hired an attorney did not originally plan to hire one until something was said or done by the insurance carrier or adjuster that changed their mind. As noted in the below graph, Sedgwick’s own analysis reveals that for claims that at some point become litigated, 64% of general liability (GL) claimants and 75% of auto liability (AU) claimants have attorney representation in place within two weeks of initial claim assignment. This also means there is a very small window of opportunity for claims professionals to change the opinion of claimants before they get legal representation.

Carriers and third party administrators should focus on two areas to combat rising attorney representation rates:

- Implementing intake technology that offers a seamless, intuitive experience and provides transparency into the claim life cycle.
- Improving soft skills like:
 - Customer advocacy (acting as an ally versus a gatekeeper)
 - Clear and compassionate communication (avoiding jargon and being respectful)
 - Empathy and emotional intelligence (recognizing verbal and non-verbal cues)
 - Active listening (asking clarifying questions and avoiding over-talking)

Claims professionals have a limited number of interactions with any claimant on a specific claim. While there aren't any statistics readily available, it is not uncommon to have between one to four connection points with unrepresented claimants on property damage claims, and perhaps 10-20 connection points with unrepresented claimants on bodily injury claims. This includes emails, letters, phone calls, SMS/text messages and any other type of connection. Each interaction with a claims professional represents a critical inflection point that may drive them toward an attorney if the interaction goes poorly.

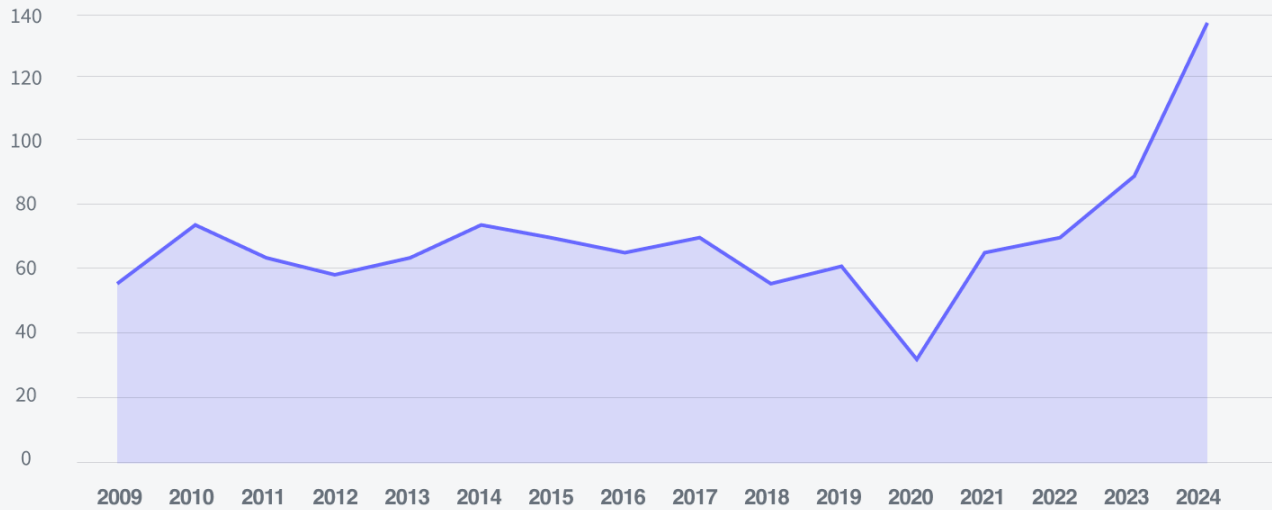
Communication style differences and, quite frankly, lack of awareness or ability to express oneself effectively, can lead to interactions that are frustrating, full of jargon and come off as accusatory. Claims professionals are often hired for their critical thinking skills and attention to detail rather than their ability to communicate effectively. Effective communication is no longer just nice to have, particularly when dealing with the types of claims that are more prone to litigation.



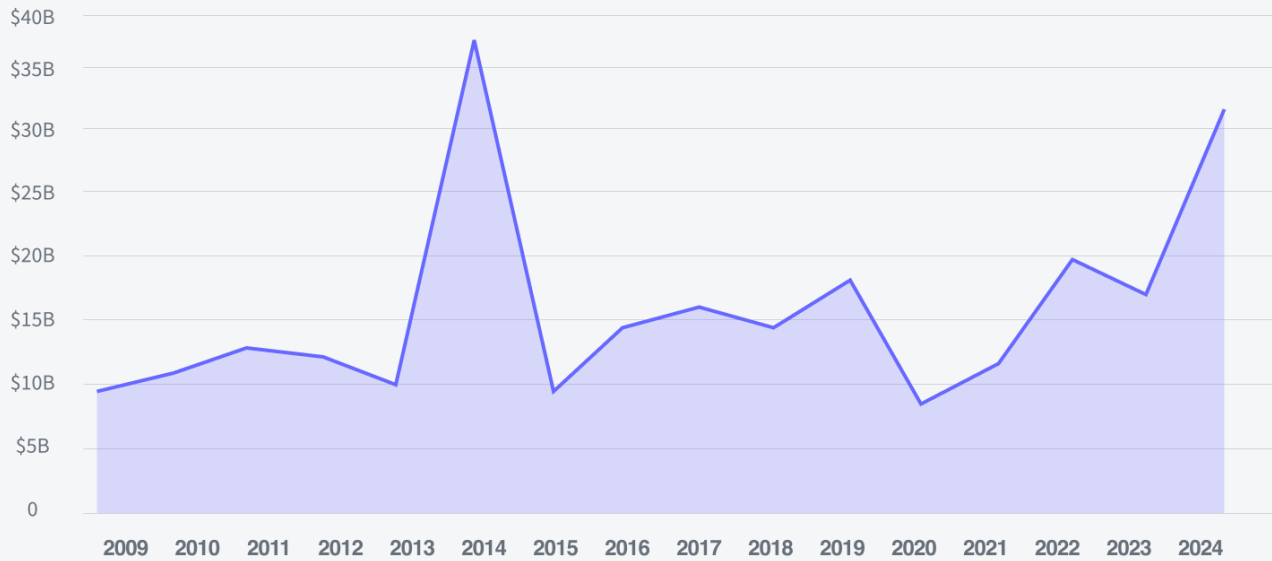
LEGAL SYSTEM ABUSE AND NUCLEAR VERDICTS

While the overall litigation rates remain relatively low for both GL and AU, the rate of nuclear verdicts continues to increase, with Marathon Strategies indicating a 52% increase in nuclear verdicts in 2024.

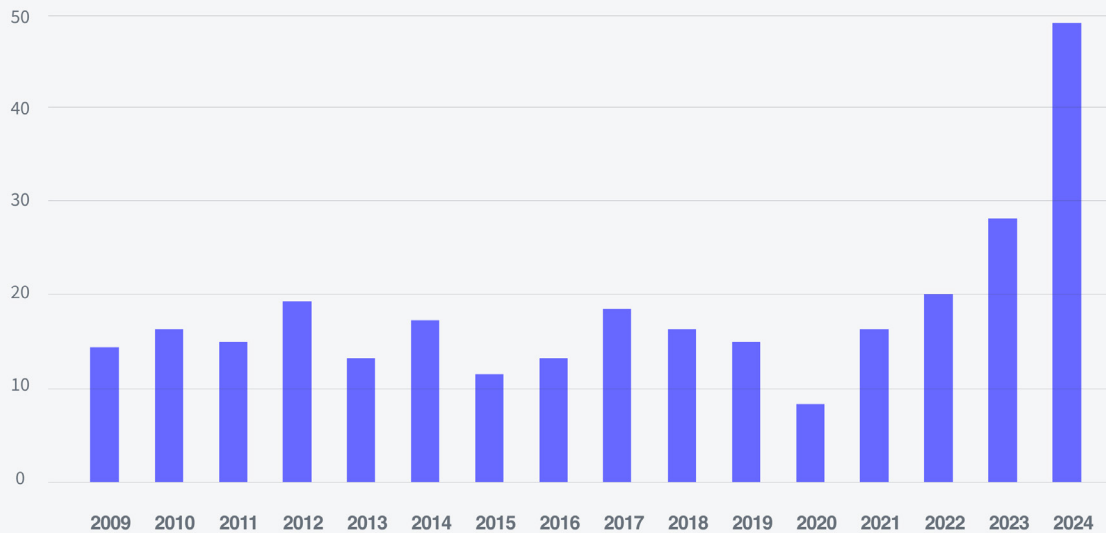
Number of corporate nuclear verdicts: 2009–2024



Sum of corporate nuclear verdicts: 2009–2024



Number of corporate thermonuclear verdicts (\$100M+): 2009–2024



Increases of 15.9% in the median verdict over that same time mean the average verdict is now at \$51 million. Further, the average cost of defending personal injury lawsuits increased by an annual rate of 7.1% between 2016 and 2022, based on a report from the Institute for Legal Reform. A Thompson Reuters survey also indicated a 6% rate increase in 2023 and a 6.5% increase in defense firm rates through Q2 of 2024. Altogether, with the cost of both settlement and defense increasing, it presents a double-whammy for the business environment.

Verdicts greater than \$100 million, termed “thermonuclear verdicts,” increased more substantially between 2023 and 2024, up 81.5% in frequency.

It should be noted that, at one time, 90% of all nuclear verdicts arose from state court cases. However, this dropped to 62% in 2024. As a result of this shift, the removal of cases to the federal level should still be evaluated as an action to counter venue challenges, yet it may not alleviate the tendency toward outsized verdicts in certain jurisdictions.

Top states for nuclear verdicts in 2024 include Texas (23), California (17) and Pennsylvania (12), with New York, Delaware and Florida tied at seven each. Florida

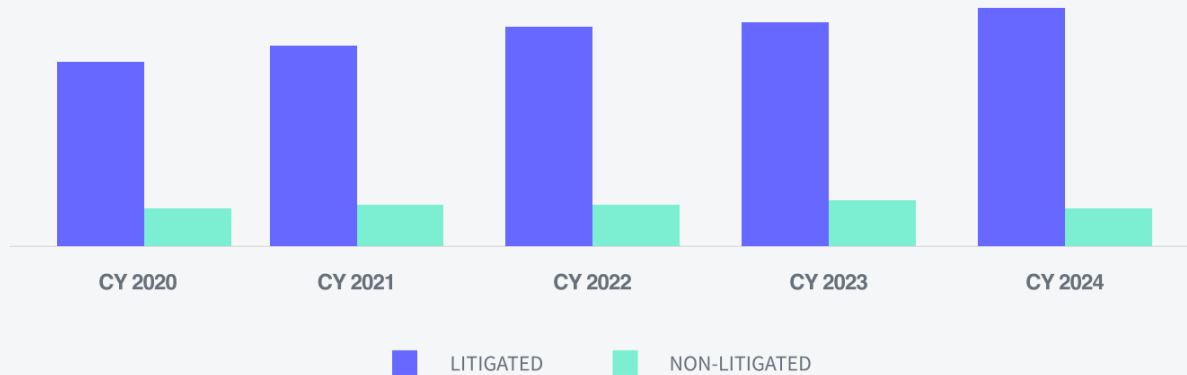
was already mentioned as a state whose tort reforms are having a positive impact by reducing the number of disproportionate verdicts. Texas, which had the most disproportionate verdicts, failed to pass any meaningful tort reform in the 2025 legislative session. A prominent tort reform advocacy group, Texans for Lawsuit Reform, is calling on the Texas Legislature to prioritize this issue in the next legislative session to put an end to legal system abuse that could jeopardize Texas’ reputation as a business-friendly state.

The Insurance Information Institute published a consumer guide to help explain how legal system abuse can impact society. The guide identifies four common traits of legal system abuse:

- Aggressive attorney advertising
- Jury anchoring
- Phantom damages (ie., billed versus paid medical bills)
- Third party litigation funding

Some states are actively addressing one or more of these drivers via tort reforms, but all four should be part of any baseline tort reform package. Companies should be actively lobbying their state legislatures for one or more of these drivers.

Pending GL claims litigation rate and average incurred



LITIGATION COSTS AND RESULTS

The cost of litigation and the average incurred of litigated claims are both increasing year over year. There have been many thoughts and findings regarding the reasons why costs and average incurred are increasing.

Sedgwick analyzed 10 years of litigated claim data for both federal and state courts. Only 1.8% of cases went to verdict, with 98.2% settling voluntarily. For the cases that went to verdict, Sedgwick categorized the result as a “plaintiff win” when the result was greater than the last offer from the defense. Whereas a result was categorized as a “favorable defense outcome” if the result was equal to or less than the last offer. Of the 1.8% of cases that went to verdict, the plaintiff won 21.7% of the time, the defense obtained a favorable outcome 75.4% of the time and the remaining 2.9% went to appeal. The data further indicates that the average amount of a “plaintiff win” has continued to increase beyond a normal inflationary rate. This is consistent with information from Lexis Nexis in their 2024 Auto Trends Report, which revealed a 20% increase in bodily injury severity since 2020.

Obviously, there is much more at stake than just the finances of a settlement, particularly when considering the impact of brand protection. One negative result

can damage the brand and have devastating long-term results. However, it’s clear that the fear of disproportionate results and damage to brands is driving an increase in settlement values. The average annual increase in settlement values has risen at three times the rate of inflation. The average annual inflation rate for the U.S. between 2015 and 2025 is 2.9%.

HOW DO NUCLEAR VERDICTS (DISPROPORTIONATE) HAPPEN?

Disproportionate verdicts can happen within any industry and on any given claim. There is a maritime concept known as the “1 in 60 rule,” which states that for every one degree off course over 60 miles, it will result in a one-mile deviation from the intended target. Over the course of an entire journey, that one-degree error can result in being hundreds of miles off target. The same can be said about managing litigation on any one claim file. A simple error or misjudgment can compound over the course of litigation in very subtle ways and take you to an end result that is miles away from where you expected it to be. Such errors or misjudgments over the course of a claims life cycle that can create an increased risk of a disproportionate verdict include:

- Failing to identify claim potential early in the claim process.
- Failing to align the right resources early in the claim process, such as:
 - Experienced litigation handler
 - Best defense counsel
 - Incoherent or disjointed litigation strategy.
 - Appropriate expert identification and selection.
 - “Groupthink” that can cloud judgment.
 - Misunderstanding of the jury pool/jurisdiction.

FAILING TO IDENTIFY CLAIM POTENTIAL

Identifying claim potential is an ongoing, evolving process that can change with each aspect of discovery, passing deadline or expert opinion. Settlement value must be continually assessed, and the earlier a high potential claim is identified, the better the outcome can be influenced. The ability to bring deep analytics to claim triage and assessment is quickly becoming table stakes. Predictive models using multiple years of closed claim data points are critical to the identification of complex and high-risk claims. But, simply having predictive models to identify claims won't do any good if you don't have modified workflows to leverage once they are identified.

There are claims that a seasoned claims professional can easily identify as having potential for complexity. It is not for these claims that predictive models have their value. Predictive models have value in their ability to find patterns in key aspects of a claim that match other claims which have settled for higher amounts, and then flagging those claims for alternative workflows. These models work by assessing information that has been added to the claim and comparing it to information from claims with much higher settlements, so the first point of failure in identifying claim potential comes from the first few days after a claim has been reported.

Astute claims executives will pursue a technology development strategy that makes information collection easy and intuitive for claims adjusters. Deploying machine learning algorithms, natural language processing and optical character recognition, in addition to training claims staff, will allow organizations to quickly and efficiently

inform their predictive models to better identify claims with high potential. Focus should be on the early stages of claim information development within the first two weeks. However, frequent reassessment of potential should occur as the claim ages and new information is obtained.

The validity of these models is heavily dependent on the extent and magnitude of data that is being analyzed. By analyzing hundreds of thousands of closed lawsuits with millions of data points, Sedgwick deploys a predictive severity model to identify high-severity claims in the first two weeks after reporting. These claims are funneled into unique workflows designed to prevent the spike in severity and managed proactively to prevent disproportionate values. Predictive severity models are key to the early identification of claims that necessitate a different workflow.

Sedgwick’s modeling of these cases reveals that claims driving negative outcomes represent less than **1% of all claims.**

FAILING TO ALIGN THE RIGHT RESOURCES

Once the potential is identified, aligning the right resources as quickly as possible is required. Most of the time, this involves having a claims professional who is experienced in claim investigation to position the claim for settlement or prepare for litigation. The vast majority of cases do not require extensive work. Sedgwick’s modeling of these cases reveals that claims driving negative outcomes represent less than 1% of all claims. It is these cases that will require a more nuanced workflow. The key to understanding which type of case you have is through the early identification process. When that “fraction of a percent” claim becomes apparent, the defense should not be shy about spending expense dollars to help position the claim for its best outcome. Early engagement allows you to conduct mock trials and/or focus groups to test case themes, provide critical witness training and help with settlement and trial research so you can truly understand the value of a claim before you get into the courtroom.

Deploying machine learning algorithms, natural language processing and optical character recognition, in addition to training claims staff, will allow organizations to quickly and efficiently inform their predictive models to better identify claims with high potential.



The plaintiffs' bar will not wait to see if the claim will settle. They are unafraid to spend expense dollars to properly position their case. Whether that be sending an investigator to conduct witness canvases, document light sequences, fully explore premise liability issues or conduct social media searches, they will spend expense dollars with an expectation of recouping that money with a big verdict.

The importance of selecting the right defense attorney cannot be understated. When a case can be worth multimillions of dollars, you need the best attorney, not the best of the ones you have pre-selected. Sedgwick uses data from hundreds of thousands of closed lawsuits to evaluate attorney performance through an attorney scorecard, which compares specific attorneys against a matrix of duration, expense and outcomes to select the most effective attorney to defend a lawsuit within a jurisdiction. These types of legal analytics are a necessity to ensure appropriate attorney selection and achieve the best outcome in the face of the kind of disproportionate verdicts seen over the last few years.

Sedgwick, through its recent acquisition of a legal spend management business from Bottomline Technologies, Inc., will further enhance their ability to assist clients in making data-driven decisions regarding their litigation management.

INCOHERENT AND DISJOINTED LEGAL STRATEGY

Plaintiff attorneys will leverage the tactic of over-naming in lawsuits. However, there is more behind this tactic than initially meets the eye. Most people will assume that naming more defendants means deeper pockets. Yet, there is growing recognition that multi-defendant cases significantly increase the risk of large or disproportionate verdicts in personal injury lawsuits due to a lack of coordination among co-defendants. Counsel, in a 2023 continuing education seminar, recommended early alignment on themes, shared jury consultants and unified witness preparation to mitigate this risk.

The cognitive bias involved is known as joint evaluation bias or distinction bias. Distinction bias causes people to overestimate how different their options are when they compare them to each other rather than evaluating them independently. In a multi-defendant lawsuit, jurors may compare each defendant to the other, thereby rendering each defendant as another plaintiff during that comparison. This is exacerbated when the defendants appear to blame each other or shift responsibility. If one defendant is seen as taking more steps to proactively mitigate a potentially dangerous situation than another, or one defendant is expressing a message of contrition, then the jury could attribute more liability to one defendant versus the others.

Identifying and selecting the right expert can **make or break a defense.**

Mock trials and jury focus groups can be beneficial when trying to ascertain how multi-defendants are viewed, including their counsel. In many multi-defendant trials, it is not uncommon for both or all defense attorneys to have time to address the jury or cross-examine witnesses. This tactic could be detrimental to the defense, particularly if the jury has a negative reaction to one of the defense attorneys. A single negative trait or first impression can taint all interactions and leave a jury predisposed to distrust or undervalue the arguments being made.

Attorneys in multi-defendant personal injury suits face unique challenges in understanding legal strategy. It may not be legally expedient to unify their defenses in some instances. This can create challenges with cooperation even though they are on the same side of the “v.” in the case caption. If a common strategy can be found, they should strive to support each other in evidence, particularly if they believe the plaintiff’s claims are unfounded or exaggerated. If their experts provide conflicting testimony or different narratives about the incident, it is critical to explain how or why these differences exist. Otherwise, they may confuse or anger a jury. Angry Juries are unpredictable juries that can return an unfavorable verdict at trial.

EXPERT IDENTIFICATION AND SELECTION

Identifying and selecting the right expert can make or break a defense. The selected expert(s) must come across as credible, confident and have a certain poise that translates to courtroom presence. The best expert has the ability to translate complex issues in simple terms and be likable at the time same. An expert who is viewed as arrogant or obstinate will do more harm than good, even

if they are the most credentialed expert in the country. When considering who would be the best expert, you need to consider more than just technical knowledge of the injury in question. Prior experience testifying is almost as critical as the technical expertise to opine on an injury.

AVOIDING GROUP THINK

Most claims in litigation have a small contingent of professionals working on them. This typically involves a litigation adjuster, their direct manager, a defense attorney and a risk management professional from the insured. Unfortunately, this small team can be susceptible to groupthink, which is when a strong leader or dominant vocal member steers the group’s direction.

Nontraditional roundtables can be a huge benefit to avoiding groupthink, especially when you are able to bring in experts who aren’t as close to the claim and don’t have the same amount of time and investment in it. They can often bring perspectives that those closer to the details might overlook. Complex claim strategy needs constructive dissent or “productive conflict” that can be brought by roundtables with select experts who are not completely invested in the claim outcome but instead invested in the overall success of the organization managing the claim.

Early-stage roundtables should serve the purpose of brainstorming investigative steps and identifying probable resources to fully understand the nature of the loss. However, later-stage roundtables serve the purpose of litigation strategy, valuation and settlement. While “outside” experts can help with both, later-stage roundtables are a better fit for their time and expertise.

JURISDICTIONAL ISSUES

Local legal culture, jury demographics and judicial tendencies obviously affect outcomes. An effective defense should include a data-driven approach to understanding jurisdictional issues, including how a judge might rule, opposing counsel behavior and potential jury sentiment. Understanding the propensity that a judge might rule in favor of certain motions can be valuable for overall litigation strategy. It is also important to understand whether judges or jurisdictions tend to be more pro-plaintiff or pro-defendant when developing strategy. The most useful data points to understand are related to jury dynamics and demographics. Hiring a litigation consultant to analyze potential jury dynamics can be a treasure trove of information.

A 2019 national survey conducted by Sound Jury Consulting found that 82% of jury-eligible millennials said they would decide a case based on their own individual beliefs about right and wrong even if those beliefs conflicted with the law. The voir dire process becomes extremely important to ensuring defense counsel understands how to ask questions to identify potential jurors who may reject their evidence. Defense attorneys must learn to go deeper than just facts and connect with the jurors at a behavioral level. General demographics such as age, gender and education are no longer adequate for finding the best jury for a client. According to a blog by Courtroom Sciences, Inc., a firm that specializes in jury consulting, demographics are not predictive of juror behavior or verdict outcomes. Personal experiences, attitudes, beliefs and personality types are more likely to predict and influence juror behavior instead.



Conclusion

While there are plaintiff bar tactics that can inflame certain juries, the defense industry should understand their own behavior's role in increasing average severities in litigated cases. With a focus on better investigations, analytics and processes, the defense should not be afraid to try the right cases. When leveraging the right resources and the right counsel, statistics show that there can still be very good results.

Though legal expense management will be key in the majority of cases, being willing to spend more expense dollars on the right cases will be critical to gaining more confidence and control over what has felt like results spiraling out of control. There is significant value in analytic modeling of claim characteristics to identify those claims that are driving negative outcomes and that require a different approach. The defense should take the proactive approach of extending offers early when they have completed the majority of their investigations. Doing litigation management "the old way" will end with the same results.

Tort reform is imperative, and insurers and businesses must do more to lobby state and federal legislatures to make their feelings known on important topics. Turning around the less-than-desirable tort liability results of the last few years will take time, patience and a clear strategy for success.



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