

AXA XL Insurance

Large Commercial

Everybody Pays:
The true cost of legal system abuse

Legal system abuse isn't just a courtroom issue. It's something every business – and every consumer – ends up paying for.

By Jim DiVirgilio

If you've ever wondered who pays for those highway billboards promising a life-changing payouts for your injury lawsuit, the answer is: we all do.

Those billboards are largely funded by plaintiff firms manipulating the legal system to prioritize profit over justice. And based on the return on investment, there's no reason to believe we won't continue to pay for those garish signs through increasing costs for everyday products and services.

Businesses are deemed by the plaintiffs' bar to have deep pockets of wealth and are able to afford to settle multi-million and multi-billion lawsuits. However, those costs are passed on to consumers in the form of rising prices for goods and services. The American Tort Reform Association found that lawsuit abuse costs every American $1,424 annually—nearly $6,000 per year for a family of four.

Legal system abuse is not new. Terms like "social inflation" and "nuclear verdict" have been around for years, and both continue to play a role in the broader realm of legal system abuse.

In this article, we will take a deeper dive into what constitutes legal system abuse and explore the rise in nuclear verdicts and the impact of third-part litigation funding in civil suits. We'll explain how policymakers and the insurance industry are working to curb the abuse and, finally, what businesses can do to protect themselves and effect change.

The role of nuclear verdicts

Legal system abuse is defined as the misuse of courts and legal procedures to gain a strategic, financial, or tactical advantage. It has become a growing problem, driving up costs, delaying justice, and eroding public trust in the civil justice system.

One of the defining characteristics of legal system abuse is the rise in nuclear verdicts, which are defined as jury verdicts exceeding $10 million.

Nuclear verdicts often include punitive damages that far exceed a plaintiff's actual economic losses. In addition to the financial impact on defendants, they can raise settlement expectations and contribute to rising insurance premiums.

The number of corporate nuclear verdicts rose to 135 in 2024, a 52% increase over 2023 numbers, according to a report, "Corporate Verdicts Go Thermonuclear 2025 Edition," by research firm Marathon Strategies. Just a decade ago, Marathon identified only 64 corporate nuclear verdicts in 2013, representing a 110% increase from 2024. "Thermonuclear verdicts" of $100 million or more increased to 49 in 2024, with five of those cases resulting in verdicts greater than $1 billion. A decade ago, these verdicts would have been considered extreme outliers.

Nuclear verdicts can also have a significant impact on the public's perception of fair and proportional damages in civil litigation. These awards go beyond what most legal experts consider rational compensation for the harm suffered. They are driven by emotional appeals, aggressive litigation tactics and expanding theories of liability. Here are two examples of nuclear verdicts:



Juries have issued massive punitive awards against a multinational pharmaceutical, biotechnology and medical technology company in cases that allege its talc-based products caused cancer. Some verdicts have exceeded $1 billion, and earlier cases produced punitive damages surpassing $4 billion before reductions on appeal.

$1 Billion



In 2019, an auto liability case in Nassau County, NY, resulted in a jury award of $100 million to the victim's parents for pain and suffering and $900 million in punitive damages against the defendant, a trucking company.

$100 Million

Tactics of the plaintiffs' bar

Legal system abuse can occur when attorneys can exploit procedural rules, court structures or litigation mechanisms to gain the upper hand in civil litigation.

Common tactics of legal system abuse demonstrate a shift from using the courts as a forum for justice to using them as leverage for financial gain. They include:

- **Frivolous claims and lawsuits:**
  Frivolous litigation is one of the most recognizable forms of legal system abuse. These cases burden courts, increase defense costs and pressure defendants—especially small businesses—to settle rather than endure prolonged litigation.
- **Abuse of classaction procedures:**
  Class actions are intended to efficiently resolve widespread harm, but they can be manipulated. Some filings prioritize attorney fees over meaningful relief for plaintiffs or rely on expansive class definitions to inflate potential damages. This can coerce defendants into large settlements regardless of the underlying merits.
- **Predatory litigation funding:**
  Third party litigation funding has expanded rapidly, allowing outside investors to finance lawsuits in exchange for a share of the recovery. While sometimes beneficial, it can also encourage speculative or unnecessarily prolonged litigation.
- **Manipulation of courtroom practices, discovery, and evidence:**
  Discovery abuse—such as excessive document requests, refusal to produce information or strategic withholding—can dramatically increase litigation costs. Parties may use discovery not to uncover facts but to pressure opponents into settlement by making the process prohibitively expensive. Jury anchoring is another tactic allowed in some jurisdictions where an attorney introduces a higher numerical value to jurors to rely, or "anchor", on that figure as a reference point when assessing potential damages in a lawsuit. Numerous studies have shown the strong effect this practice has on jury award decisions.

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Of these tactics, the recent emergence of third-party litigation funding potentially has the most impact. It has become one of the most influential—and controversial—forces shaping civil litigation. Its rapid growth raises concerns about transparency, fairness and escalating legal costs.

Litigation Funding

Third-party litigation funding (TPLF) is the practice in which outside investors finance a lawsuit in exchange for a share of any settlement or judgment. These funders generally have no direct claim in the underlying dispute but use litigation as an investment vehicle. Analysts increasingly identify TPLF as a driver of social inflation, contributing to rising claims costs and larger verdicts because funders profit only when payouts increase.

TPLF operates through several models. In single-case funding, a financier backs one lawsuit, typically one with high potential damages. Portfolio funding involves financing multiple cases at once, spreading risk across a broader set of claims. The key parties include the funder, who supplies capital; the plaintiff, who receives financial support; and the attorneys, who may coordinate with funders on litigation strategy.

While proponents argue that TPLF expands access to justice, critics warn that it can incentivize frivolous or overly aggressive litigation. Because funders profit only from large recoveries, they may encourage plaintiffs and attorneys to pursue riskier strategies, prolong litigation or reject reasonable settlements. Reports also highlight that the industry operates with minimal transparency, often without disclosure to courts or opposing parties. This secrecy raises ethical concerns about who is influencing litigation decisions and whether funders exert control over case strategy.

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Tort reform

Legislative and policy responses to legal system abuse have grown significantly in recent years, with states adopting new tort reform measures, transparency rules and procedural changes aimed at curbing excessive litigation and rising verdicts. These reforms, however, face political resistance and uneven implementation across jurisdictions.

Efforts to address legal system abuse often begin with limits on punitive damages, which several states have enacted to curb unpredictable and disproportionate jury awards.

A wave of state-level tort reform has also emerged. Georgia, for example, enacted sweeping reforms in 2025 through Senate Bills 68 and 69, introducing new procedural rules, damages limitations and updates to trial practices. Similar initiatives in other states aim to streamline litigation, reduce forum shopping (the strategic practice where a plaintiff chooses to file a lawsuit in a specific court or jurisdiction that is most likely to provide a favorable outcome) and promote fairness in civil proceedings.

Another major development is the push for transparency in third-party litigation funding, requiring greater disclosure of funding providers and financial interests in lawsuits. Between 2023 and 2025, eight state legislatures, including Georgia and Louisiana, have made the contents of TPLF contracts subject to automatic discovery or upon request.

These reforms face significant opposition from trial lawyers and advocacy groups, who argue that caps on damages and procedural restrictions limit access to justice for injured individuals.

Potential solutions to the problem of legal system abuse include federal legislation to create uniform standards for litigation funding disclosure, punitive damages and class-action procedures. Congress is currently examining legislation that would introduce transparency when TPLF agreements are present in a suit before a federal court or bar foreign actors from participating in federal TPLF arrangements. Nationwide rules could reduce inconsistencies and prevent forum shopping.

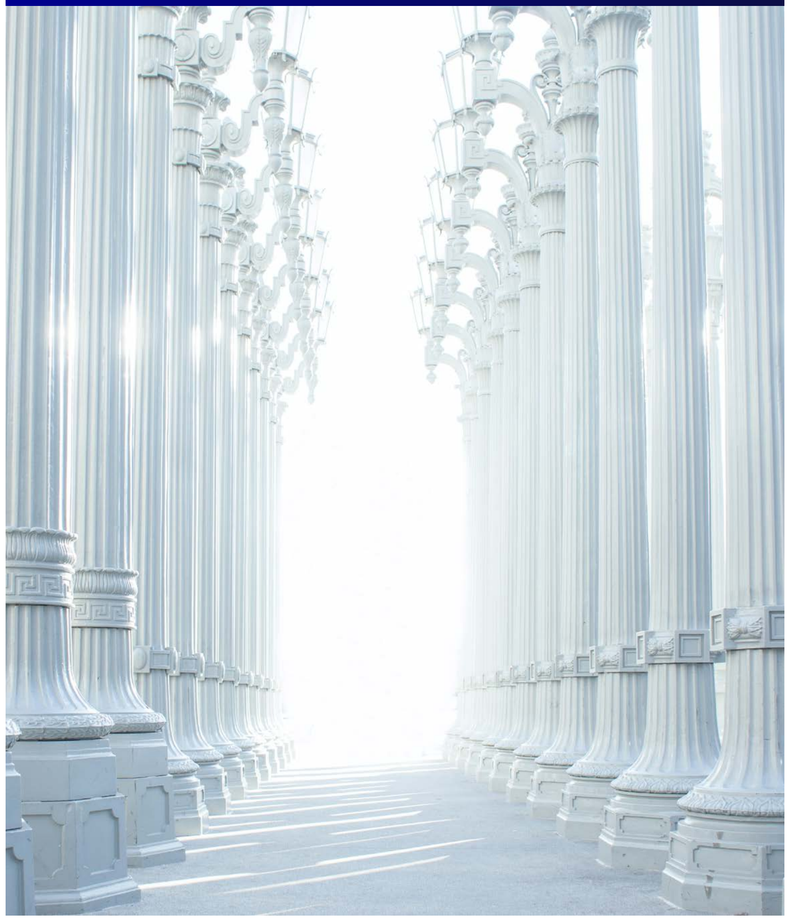
The role of insurance

The insurance industry has become one of the most active voices in confronting legal system abuse, responding with risk management strategies, advocacy efforts and collaborative initiatives aimed at reducing inflated claims costs and restoring balance to the civil justice system.

Insurers have adopted risk management practices to stem the rising costs associated with legal system abuse. These practices include enhanced claims monitoring, early case assessment and the use of analytics to identify patterns of excessive litigation. Industry research shows that legal system abuse has significantly inflated claims payouts across multiple lines of insurance, with commercial auto insurers alone paying $20 billion more than expected between 2010 and 2019 due to litigation.

Many insurers advocate for tort reform, supporting legislative efforts to curb abusive litigation tactics and reduce the frequency and severity of nuclear verdicts. Insurance industry groups such as American Property Casualty Insurance Association and Insurance Information Institute have led the charge.

Companies can reduce exposure to abusive litigation by strengthening compliance programs, improving documentation and using early dispute-resolution strategies.



What can you do?

Putting an end to legal system abuse will require coordinated efforts from individuals, businesses, policymakers and the broader public. With tort costs reaching hundreds of billions annually and driving up prices for consumers, every stakeholder has a role to play in promoting fairness and transparency. And consumers and businesses have the most influential voices.

Companies can reduce exposure to abusive litigation by strengthening compliance programs, improving documentation and using early dispute-resolution strategies. Businesses can also actively support state and national efforts to curb abusive tactics.

Working together, insurers, consumers, businesses and policymakers can help restore balance to the civil justice system, reduce unnecessary costs and ensure that legal process works in the service of justice instead of profit.

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