

Reducing the Costs of Civil Litigation

What are the Costs of Litigation?

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Introduction: What Do We Know About the Costs of Litigation?

Few Americans today would disagree with the perceptions of Professor Marc Galanter about the recent litigation "explosion":

"It has become commonplace that the United States is the most litigious nation on earth, indeed in human history, and that excessive resort to law marks America's moral decline and portends painful political and economic consequences. A phalanx of mournful and indignant commentators concur that America is in the throes of a litigation crisis requiring urgent attention from policymakers."

Marc Galanter, The Day After the Litigation Explosion, 46 Md. L. Rev. 3 (1986).

While this observation is one that may be widely held by the American public, it is necessarily true? Has there indeed been a recent litigation "explosion?" This paper examines the public's perception on the litigiousness of our society, reviews the available empirical data about the true costs of litigation, and assesses whether there truly has been a litigation "explosion."

Public Perception:

The media has contributed to our perception that there is a litigation explosion by consistently portraying our society as hyper-litigious. Id. For example, even highly reputable publications have been quoted to declare that "[a]mericans in all walks of life are being buried in an avalanche of lawsuits." Why Everybody is Suing Everybody, U.S. News & World Report, Dec. 4 1978, at 50. In addition, the American public is constantly exposed to viewpoints which proclaim that "[o]ur society has become the most litigious society in the world. No other nation is even close." Taylor, On the Evidence, Americans Would Rather Sue Than Settle, N.Y. Times, July 5, 1981, sec. 4, at 8E, Col. 1.

It is not surprising, then, that the American public harbors popular sentiments like "Americans sue at the drop of a hat," "courts are overflowing with frivolous and greed-driven lawsuits," and "uneducated and ignorant juries are awarding millions to undeserving litigants." Furthermore, the public has been peppered with statistics that are unsubstantiated. In the midst of the 1992 presidential debate, for example, the Republican Platform severely criticized "our crazy, out of control legal system" by declaring that individuals, businesses, and governments spend over \$300 billion a



year on civil litigation. The Vision Shared: Uniting Our Family, Our Country, Our World: The Republican Platform 1992, 75 (1992). The \$300 billion statistic referred to by the Republican Platform was not only misstated, but highly exaggerated. Marc Galanter, News from Nowhere: The Debased Debate on Civil Justice, 71 Denv. U.L. Rev. 77.

Along with media reports and hyperbolic statements made by political candidates, the public usually cites three factors as support for the litigation "explosion." First, the public has become well aware of the growth, in size, of the legal profession due to reports that there are too many lawyers in the United States. It is widely known that with more than 600,000 attorneys, United States contains the most attorneys of any country in the world. Id.

Second, the media has revealed to the general public that there has been an increase in the number of filings in federal courts. This has had the effect of leading the public to believe that all courts, whether federal or state, have been plagued with more cases than they can handle. The increased number in filings for federal courts, however, is not an accurate gauge of a litigation explosion because more than 98% of all civil cases are filed in the state courts. Galanter, The Day After the Litigation Explosion, 46 Md. L. Rev. 3 (1986).

Finally, news reports of multi-million dollar cases have also influenced the public's perception of a litigation "explosion." Marc Galanter, Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society, 31 UCLA L. Rev. 4 (1983). For example, a recent case in which a woman received a multi-million dollar award from McDonald's restaurants reinforced the public's perception that everyone is suing everyone else.

Reality: The Relationship Between Costs and the Litigation "Explosion"

Public perception of our legal system is clouded with myths and half-truths. These misperceptions contribute to the notion that there has been a general litigation "explosion." In reality, there has been no general litigation explosion. Only a small subset of cases with high stakes and extended processing times have reported exorbitant legal costs. These protracted, high stakes cases have inflated the overall average of the costs of litigation. David J. Jung & Richard Harkness, The Facts of Wrongful Discharge, 4 The Labor Lawyer 257 (1988). The public has taken hold of these reports and wrongly inferred that there has been a litigation "explosion" for cases of all sizes, stakes, and duration. See Galanter, News from Nowhere: The Debased Debate on Civil Justice, 71 Denv. U.L. Rev. 77; see also, Galanter, The Day After the Litigation Explosion, 46 Md. L. Rev. 3.

Have these "explosive," high stakes cases have driven up the cost to litigate an average case? Empirical research from the Wisconsin Civil Litigation Research Project, discussed below, reveals that this has not been the case. According to the Wisconsin study, the cost to litigate an average or "typical" civil suit rarely exceeds \$10,000. David M. Trubek, Austin Sarat, William L.F. Felstiner, Herbert M. Kritzer & Joel B. Grossman, The Cost of Ordinary Litigation, 31 UCLA L. Rev. 72, 80 (1983). Thus, it is generally not outrageously expensive to litigate an average case. Id. Moreover, public concern for the litigation "explosion" and skyrocketing costs appears to be derived from the lofty costs of

defending high stakes cases.

To further explore these issues, this paper will first review the available statistics on the recent increase in the number of cases filed in state and federal courts and settlement rates. It will then examine empirical data on what it costs to litigate an average civil case in state and federal courts. Next, this paper will analyze the cost to litigate high stakes cases and pinpoint the source of the perceived increase in the costs of litigation. Finally, this paper will examine the market forces and the public's reaction to high costs by discussing some of the methods clients and practicing attorneys have created to reduce their costs of litigation.

Recent Statistics: Increased Expenditures:

Recent statistics reveal a trend of increased expenditures and cases filed by the American public. For instance, expenditures by consumers on legal services increased over 400% from \$13.8 billion in 1980 to \$54 billion in 1992 (representing a steady 12% annual increase). Survey of Current Business, Aug. 1993, p. TO.04. Similarly, wages and salaries for legal employees increased from \$9.80 billion to \$45.30 billion in the same period. Id.

The same increasing trend can be found in the volume of cases and in the expenditures of the state courts. Filings in California State Superior Courts, for example, increased from 593,120 in 1984-85 to 729,372 in 1993-94. 1995 Annual Report, Judicial Council Report of the Government and Legislature, Judicial Council of California. From 1988 to 1990, state and local spending for Justice activities increased 18%. State Court Organization 1993, Jan. 1995, WCJ 148346 (Joint Effort of the Conference of State Court Administrators and the National Center for State Courts). For both Federal and state spending, there was combined 22% increase. Id. Moreover, the percent change in direct expenditures for Justice activities from 1971 to 1990 increased 533.3%.

Most Cases Settle

Researchers have noted that:

"the very fact that a dispute has reached the court and not been settled without litigation makes it unusual. Viewed against the baseline of potential lawsuits, litigation is not frequent, since for every dispute in the court records there are nine others that never even reach the filing stage."

David M. Trubek, Austin Sarat, William L.F. Felstiner, Herbert M. Kritzer & Joel B. Grossman, The Cost of Ordinary Litigation, 31 UCLA L. Rev. 72, 80 (1983).

The results of several empirical studies have verified the notion that very few cases even get to the trial stage and that most cases settle. See James S. Kakalik, Elizabeth M. King, Michael Traynor, Patricia A. Ebener, & Larry Picus, Costs and Compensation Paid in Aviation Accident Litigation, R-3421-ICJ (Rand Institute for Civil Justice) 1988; see also Deborah R. Hensler, Mary E. Vaiana, James S. Kakalik, & Mark A. Peterson, Special Report, Trends in Tort Litigation: The Story Behind the Statistics, R-3853-ICJ (Rand Institute for Civil Justice) 1987. In fact, a study of the Bureau of Justice Statistics concluded, among other things, that only 2% of the 762,000 cases disposed of--whether by settlement, trial, or other means--were decided by juries. [1] Carol J. DeFrances,

Steven K. Smith, Patrick A. Langan, Brian J. Ostrum, David B. Rottman, & John A. Goerdt, Civil Jury Cases and Verdicts in Large Counties, Bureau of Justice Statistics Special Report, NCJ-154346, (1995).

These statistics buttress the notion that the litigation "explosion" may be exaggerated. If only a small percentage of state and federal cases actually reach the trial level, how can our society be characterized as hyper-litigious? Will reforms designed to reduce the cost of litigating a case reduce settlement rates and effectively increase the total amount being spent on litigation overall? While these questions are not easily answered, we must first examine what it actually costs to litigate a civil case to determine what areas of litigation are truly in need of cost reform.

Available Statistics: What Does Litigation Really Cost?

In the last two decades, Americans have been spending more and more on legal services. A. Leo Levin & Denise D. Colliers, Containing the Cost of Litigation, 37 Rutgers L. Rev. 219, 222 (1985); see also Survey of Current Business, Aug. 1993, p. T2.04 (reporting that there has been a steady 12% annual increase in spending for legal service in the United States). For example, the Gross National Product for legal services in the United States totaled \$33.8 billion in 1983, an increase of 58.6% from \$9.8 billion in 1973. [2] Id.

Similarly, the federal government has been funding and spending large amounts of money for civil litigation. J. Kakalik & A. Robyn, Cost of the Civil Justice System: Court Expenditures for Processing Tort Cases, 49 (Rand Institute for Civil Justice) 1984. A study conducted by the Rand Institute for Civil Justice calculated that it costs the government \$8.34 per case-related judge's minute in 1981 and \$9.41 in 1982 to litigate an ordinary tort case in the federal courts. Id. According to the Rand study, the federal Government incurred costs of \$600 per hour for an average Federal tort case. Id.

Empirical Data: The Wisconsin Civil Litigation Research Project

In 1983, researchers for the Wisconsin Civil Litigation Research Project conducted an empirical study examining the cost of resolving an average civil dispute in five randomly chosen geographical areas: Eastern Wisconsin, Central California, Eastern Pennsylvania, South Carolina, and New Mexico. David M. Trubek, Austin Sarat, William L.F. Felstiner, Herbert M. Kritzer & Joel B. Grossman, The Cost of Ordinary Litigation, 31 UCLA L. Rev. 72, 80 (1983). The project's researchers randomly selected 1,649 civil lawsuits of all types from court records as their sample. Id. at 81. Half of the sample consisted of state cases and half were federal court cases. Id.

With the goal of acquiring data for the "typical" or "average" civil lawsuit, the researchers screened out cases in which the amount in controversy was too big ("megacases") or too small (less than \$1,000). Id. at 80. The researchers received their empirical data through interviews with the parties and attorneys involved. Id. These interviews lasted approximately one hour and covered all aspects of the case. Id.

The Results

Because the researchers screened out cases with very high stakes and "megacases," they did not procure any data on the attorneys fees for those cases. It is therefore not surprising that the researchers found that legal fees for a "typical" lawsuit were very moderate. Id. at 92.

Specifically, only eight percent of the cases studied reported legal fees of more than \$10,000. Id. Another eight percent reported legal fees ranging between \$5,001 to \$10,000. Id. In thirty eight percent of the cases, the legal fees ranged between \$1,001 to \$5,000. Id. Most surprisingly, forty six percent of the cases studied reported legal fees of only \$1,000 or less. Id.

After analyzing their data the researchers summarized the characteristics of their "typical" case. Id. at 84. In terms of what was at stake, the stakes for a typical case were approximately \$10,000. Id. For state cases, less than five percent of the cases reported stakes of over \$50,000. Id. at 88. Approximately seven percent of the cases had stakes between \$25,000 and \$50,000. Id. Thirty percent of the state cases reported stakes between \$5,000 and \$25,000. Id. Over fifty percent reported stakes of \$5,000 or less. Id.

The researchers reported, based on arithmetic mean, that each of the parties' attorneys spent about seventy-two hours on their cases. Id. Fact gathering and negotiations constituted a majority of the seventy-two hours invested. Id. at 84. Finally, the typical case was procedurally simple and usually settled voluntarily without a verdict or judgment on the merits. Id.

Asbestos and Air Accident Cases

In contrast to the modest legal fees found by the researchers of the Wisconsin Project, the Rand Institute for Civil Justice found that litigants spent significantly more money on legal fees for asbestos and air accident cases. James S. Kakalik, Elizabeth M. King, Michael Traynor, Patricia A. Ebener, & Larry Picus, Costs and Compensation Paid in Aviation Accident Litigation, R-3421-ICJ (Rand Institute for Civil Justice) 1988.

Specifically, the Rand study reported that of the approximately 200 air accident death cases filed each year, plaintiffs' average litigation expenditures amounted to \$72,000 and defendant's average costs amounted to \$49,000. Id. Of course, because all of these air accident cases involved the death of the plaintiff, the stakes of the cases are much higher (an average of \$412,000) in comparison to the Wisconsin Projects' cases. Id. However, this is consistent with the fact that the cases studied by the Rand Institute were high stakes cases.

For the over 5,000 asbestos cases filed each year, plaintiffs paid an average of \$31,000 in litigation costs and defendants paid an average of \$45,000. [3] Id.

A comparison of the costs of litigation for the "typical" case in the Wisconsin study and the high stakes cases in the Rand study suggests that any reforms designed to reduce the costs of litigation should be targeted at the high stakes cases. Interestingly, the Rand institute's results for all tort cases combined were consistent with the results of the Wisconsin Project. In all tort cases combined, the parties involved expended significantly less for attorneys fees. The average plaintiff paid \$8,000 in litigation costs and the average defendant paid \$10,000. [4] Id.; see also James S. Kakalik & Nicholas M. Pace, Costs and Compensation Paid in Tort Litigation, R-3391-ICJ (Rand Institute for Civil Justice) 1986 (reporting similar results for a study conducted in 1986); Deborah R.

Hensler, Mary E. Vaiana, James S. Kakalik, & Mark A. Peterson, Special Report, Trends in Tort Litigation: The Story Behind the Statistics, R-3853-ICJ (Rand Institute for Civil Justice) 1987 (reporting consistent results for a 1987 study).

Civil Jury Cases and Verdicts in Large Counties:

Empirical Data for Typical and High Stakes Cases

In 1992, the Bureau of Justice Statistics of the Department of Justice conducted a study examining the state court dockets of the United States' seventy five most populous counties in 1992. [5] Carol J. DeFrances, Steven K. Smith, Patrick A. Langan, Brian J. Ostrum, David B. Rottman, & John A. Goerd, Civil Jury Cases and Verdicts in Large Counties, Bureau of Justice Statistics Special Report, NCJ-154346, (1995). The study focused on the results of the three main types of civil jury trial cases: tort, contract, and real property disputes. Id. In all, the researchers surveyed over 762,000 cases. Id.

The Results

The researchers found that the total final amount awarded to plaintiff winners amounted to over \$2.7 billion in compensatory and punitive damages for the 762,000 cases. Id. at 5. The mean final award amount for all cases was \$455,000. Id. The mean case processing time from filing the complaint to jury verdict was 30 months. Id. at 10.

Extreme and High Stakes Cases

Three types of cases reported extraordinarily long case processing times. Id. at 10. Over 28% of medical malpractice cases, for example, reported case processing times of four years or more. Id. Similarly, 26.9% of toxic substance cases lasted four years or more. Id. Finally, 20.6% of professional malpractice cases lasted four years or more. Id. These three types of cases surpassed the 30 month average by at least 18 months. Id. Undoubtedly, these 18 additional months of litigation amassed correspondingly added attorneys fees and costs for the plaintiffs and defendants involved.

In terms of final award amounts, professional malpractice, medical malpractice, and toxic substance cases again reported extreme results. Id. at 5. While only 21.5% of all cases surveyed reported final awards of over \$250,000, 47.1% of the medical malpractice cases surpassed the \$250,000 mark. Id. Similarly, 38.4 of professional malpractice cases and 30.4 percent of toxic substance cases reported final awards of over \$250,000. Id.

Of all the 726,000 cases surveyed, only 7.5% reported final awards of \$1 million or more. Id. However, an astonishing 24.8% of medical malpractice cases reported final awards of \$1 million or more. Id. The final awards of 13% of professional malpractice cases and 13.3% of toxic substance cases amounted to \$1 million or more. Id. Finally, 13.8% of employment disputes and 15.4% of product liability suits reported final awards \$1 million or more. Id.

Pinpointing the Source of the Litigation Explosion

In considering the public's perceptions and misperceptions, the empirical data offered by the Wisconsin Civil Litigation Research Project, the Bureau of Justice Statistics, and the Rand Institute, and the increase in the sheer number of cases filed, it appears that there

has not been a litigation "explosion" and correspondingly high costs for all types of civil suits. Instead, the foregoing data suggest that the source of the litigation "explosion" may be attributed to cases that have reported extremely high attorneys' fees, case processing times, and final award amounts. Rather than a general litigation "explosion," there may have been a litigation "explosion" for civil cases in the areas of professional malpractice, medical malpractice, air accident, asbestos, product liability, toxic substance, and other types of high stakes cases.

Thus, the best explanation for the public's perception of litigation "explosion" may be attributed to these extreme cases. Professors David Jung and Richard Harkness have noted that these types of cases

"are characterized not only by higher awards, but by their 'explosive' quality, that is, by the tendency of the average to be driven up by a few, extraordinarily big awards in a few, often highly publicized cases."

David J. Jung & Richard Harkness, The Facts of Wrongful Discharge, 4 *The Labor Lawyer* 257 (1988).

Accordingly, this paper shall make an effort to tailor its proposed reforms to these high stakes or any other cases that have reported disproportionate costs of litigation cases when applicable. [6]

The Public's Response: Clients' Individual Efforts to Reduce Costs

In light of the public's perception of a litigation explosion, "[a]ttorneys have seen and experienced dramatic changes in the way they deal with their clients No area of law practice management has been affected as much as the one that deals with fees and filing." Lowell E. Rothschild, Chair's Letter from Lowell E. Rothschild, Tucson, Arizona, *American Bar Association, Law Practice Management*, Vol. 21, No. 7, Pg. 19, October 1995. In fact, there has been a marked trend of clients reporting dissatisfaction with the billing practices of their attorneys and the amount they have incurred for litigation costs. Id. Clients have reacted to this dissatisfaction by exercising more control over their cases, soliciting bids from different law firms, and even acting on their own behalf.

Exercising Client Control

In the last few years, the Bank of Boston ("the Bank") became increasingly concerned with the enormous attorneys fees it paid to its outside counsel. Eric Robinson, Making Firms Bill on Budget, *The American Lawyer, Corporate Counsel Section*, inside management, pg. 58, September 1991. Along with a few other corporations, the Bank decided to aggressively implement a program to monitor and control the fees it paid to these law firms. Id. at 3. After hiring an expert on external legal expense management, the Bank created a formalized pre-approval process in which the law firm required to estimate the cost of the services it was to provide for each matter. Id.

In terms of billing, the law firm was required to submit its bills monthly using the Bank's format, noting each attorney and legal assistant by name, the hours of each timekeeper, and a detailed description of the services rendered. Id. at 4. The bills were then compared with the estimates originally proposed by the law firm. If the law firm exceeded

its proposed budget, the firm would not be paid. Id. Throughout the process, the Bank retained an extremely accurate and current update on its costs of litigation. Id. Moreover, the law firm involved has a huge incentive to stay on budget or face the consequences of not being paid.

Although the Bank's program may yield harsh results for non-complying law firms, the Bank's outside counsel have learned to adjust to the program and work effectively under it. Id. Most importantly, the Bank garnered increased control and cut its costs of litigation.

Bidding Wars

The Chrysler corporation developed a creative solution to reduce its legal costs: it pitted law firms against each other by asking them to bid for a defined piece of Chrysler's new litigation matters. Leroy C. Richie, Bidding and Budgeting: Controlling Costs at Chrysler, Corporate Counsel Section, pg. 6, *The American Lawyer*, November 1990. Chrysler's bidding process is relatively simple. Id. at 6. First, it selects matters that will last a minimum of 20 days. Id. Second, it selects matter that are reasonably well defined so that the law firms can give firm price estimates for the work to be rendered. Id. Third, Chrysler sends a request to qualified law firms seeking their proposals. Id. at 7. The request itself is usually a 30-page document detailing Chrysler's wants, needs, bidding rules, and expectations. Id. Finally, Chrysler selects the most qualified and reasonably priced firm based on the proposals they received. Id. After the firm has been hired, Chrysler closely monitors the progress of the work by requiring weekly billing updates to determine if the firm is on track with their proposed budget. Id.

Chrysler has been very pleased with the results of its bidding system. Id. at 6. In one major litigation matter, for example, the bidding system saved the corporation an estimated 40% in legal costs. Moreover, the system has consistently produced high quality and prompt legal services from the winning firms. Id.

Self Representation

An extreme reaction of clients' dissatisfaction with the perceived costs of litigation can be found in the areas of family law, landlord-tenant, bankruptcy, and immigration law. Suzanne Northington, Filings in Pro Per Are Way Up in Family Court, *California Lawyer*, May 1994. These areas have reported a significant growth in pro per filings in the past 5-10 years. Id. The major reason for the rise in pro per filings stems from the fact that clients can no longer afford to hire an attorney for these relatively simple, low stakes types of cases. Id. Approximately five years ago, one could hire an attorney to process a routine California divorce for \$1,500. Id. Today, legal costs have increased to the extent that a divorce would now cost over \$5,000 to process. Id.

The increase in legal costs can be attributed to a concurrent increase in the complexity of family law cases and malpractice insurance rates for attorneys. Id. These factors have forced attorneys in the family law area to increase their fees to the point that many clients must represent themselves to control their legal costs. Id.

Attorneys' Efforts to Reduce Costs

To counteract the public's perception of skyrocketing litigation costs and garner more business, attorneys and law firms have also made efforts to cut legal costs. Such efforts

include sharing litigation costs with the opposing side and hiring contract attorneys for high stakes cases.

Sharing Litigation Costs

One of the most innovative new ways for attorneys to reduce the costs of litigation is to share resources and split the expenses involved in litigating a case with the other side. There are several cost areas where attorneys can enter into an agreement with their opponent and save their clients money. Peter S. Conley, Sharing Savings Between Strange Bedfellows; Partnering With a Twist: Cutting Litigation Costs by Cooperating With Opposing Counsel, The Recorder, Management Section, pg. 8, September 8, 1995.

For example, all the parties in a dispute could reduce their overall costs of document imaging and photocopying by copying their documents with the same company and the same time for an additional price break. Id. This savings is especially noticeable when the discoverable documents in a case exceed 100,000 pages. Id. Similarly, opposing attorneys may save their clients thousands of dollars by sharing the costs of document numbering services, inventory indexing, hiring stenographers and court reporters, and calling neutral experts. Id.

Contract Attorneys

To litigate high stakes cases, it is common to require the review of millions of different documents as a part of the discovery process. Samuel A. Frederick, Teaming Up With Temporary Lawyers, Litigation Section, pg. 58, The American Lawyer, May 1995. Rather than assigning these document review tasks to expensive full time associates, many law firms have been hiring temporary attorneys on a contract basis to complete these tasks. Id. "Teams of temporary lawyers are low-cost, high-control solutions to staffing litigation matters: offering a firm necessary experiences for only as long as it's needed." Id. at 59. Hiring temporary lawyers not only offers the client a 20-50% savings on hourly billing rates, but it practically ensures high quality work because many of the temporary attorneys hired are over-qualified. Id. at 58.

Conclusion

Although the public has perceived that there has been an enormous rise in the costs of litigation, there has not been a general litigation "explosion." The source of the public's misperception can be attributed to high stakes cases that have reported disproportionately high attorneys' fees, case processing times, and final award amounts. These often highly publicized cases have aided in skewing public perception by increasing the general averages of the cost of litigation. Examples of these cases are not limited to professional malpractice, medical malpractice, air accident, asbestos, product liability, and toxic substance cases.

In addition to these high stakes cases, some lower stakes cases in the fields of family law, landlord-tenant, bankruptcy, and immigration law have been reporting a rise in pro per filings and a concurrent increase in legal costs. These data suggest that we may soon witness an "explosive" increase in costs for some low stakes as well as high stakes cases.

Thus, it is possible that the cause of rising litigation costs may not be solely attributable to

high stakes cases. As such, this project will be cognizant of future trends in costs and examine the strategies available to reduce the costs of litigation for all types of cases, paying particular attention to reforms for protracted, high stakes cases. The reforms and strategies to be discussed will apply to every stage of a dispute from pleading, to discovery, to trial, and to the appeals level.

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Notes

[1] The actual figures showed that only 2.3% of tort cases, 0.7% of contract cases, and 2.1% of real property cases that reached the jury stage. ([return to text](#))

[2] These GNP figures are in 1972 dollars and have been adjusted for inflation. *Id.* These figures, while large, do not include the cost of government employees such as judges or in-house counsel. *Id.* ([return to text](#))

[3] The Rand study reported that the stakes for average asbestos cases was \$123,000. ([return to text](#))

[4] The stakes for an average tort case was \$37,000. ([return to text](#))

[5] For the state of California, nine counties were represented in the study: Contra Costa, Fresno, Los Angeles, Orange, San Bernardino, San Francisco, Santa Clara, and Ventura county. ([return to text](#))

[6] One such tailored reform has been implemented in the State of Florida, where fee shifting provisions have been applied solely to high stakes medical malpractice cases. See the fee shifting section of this project, *infra*. ([return to text](#))