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A Comparative Analysis of Judicial War Zones and Punitive Damages

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Punitive Damages

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Punitive damages are typically awarded at the court's discretion in addition to ACTUAL compensatory damages when a defendant's conduct is determined to be egregious, willful, intentional with knowledge that the conduct will cause harm.



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What is a Judicial War Zone?



States and specific courts in various jurisdictions where judges systematically apply laws and court procedures in an unfair and unbalanced manner, generally against defendants in civil lawsuits.



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Judicial “War-Zones” To Watch...



- California (#1 in 2024)
- Pennsylvania (#4 in 2024; Philadelphia Court of Common Pleas and PA Supreme Court - formerly #1)
- Georgia
- Illinois (Cook, Madison and St. Clair Counties)
- New York
- Nevada
- Texas (Court of Appeals, 5th District-Dallas)
- Louisiana
- Missouri (St. Louis)



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California



Lawsuit abuse and excessive tort costs wipe out billions of dollars for economic activity annually. CA residents pay a “tort tax” of \$574 per person. If CA enacted specific tort reforms targeting lawsuit abuse, the state would save over \$22 billion.



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Pennsylvania (Philadelphia)



As a result of pervasive lawsuit abuse, PA residents are in effect paying a “tort tax” of \$1,115 per person. If PA enacted certain tort reforms the state could save over \$14 billion.



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Georgia



There has been a significant rise in lawsuit abuse and GA's legislature being indifferent has lead to extreme verdicts. Through enacting certain reforms it is estimated that the state may save over \$3 billion on litigation related expense



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Illinois (Cook, Madison, St. Clair)



This trio is a magnet for asbestos litigation and "no-injury" lawsuits stemming from the state's Biometric Information Privacy. In addition, the General Assembly is one of the most plaintiff-friendly legislatures in the country. Lawsuit abuse imposes a "tort tax" of \$1049 per resident. Reform could save the state \$13 billion in litigation expenses.



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New York



“One of the worst legal climates in the nation. The gap between California and New York is narrow, as the two jurisdictions battle it out for the most “no-injury” class action lawsuits targeting the food and beverage industry and the most claims under the Americans with Disabilities Act.” NY residents are paying a “tort tax” of \$1450 per person. Reform measures would save \$28 billion annually.

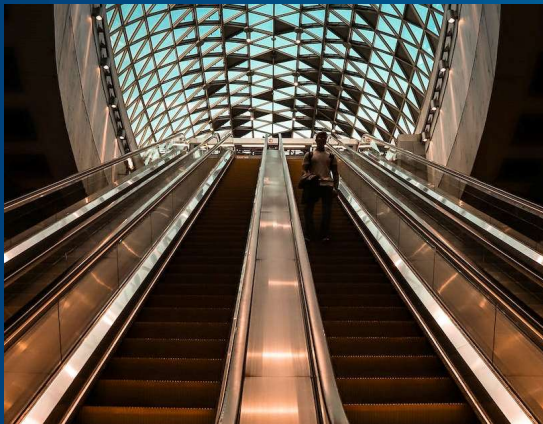


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Nevada (Clark County)



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Texas (Court of Appeals, 5th District-Dallas)



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Just a few more to mention...



Louisiana

Coastal litigation continues to drain state resources. Judicial misconduct appears to run rampant across the state and the investigation continues into a massive scheme to defraud commercial truckers and insurers in Louisiana courts. A state court also opened the floodgates to COVID-19 litigation not permitted elsewhere.

Missouri (St. Louis)

St. Louis once again finds itself on the list; however, the “Show-Me-Your-Lawsuit” state has made important progress through legislative reforms. While the legislature has prioritized civil justice reform, there is more work to be done. Junk science is permitted in St. Louis courts, which have a history of nuclear verdicts. Courts allow “phantom damages” and it’s a favorite jurisdiction for asbestos litigation.

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Considerations for Adjusters Handling Claims in Judicial War Zones



- Caps/Insurability of Damages
- Removal / Transfer of Venue
- Punitive Wrap Policies
- Early and Creative Resolution to Avoid Unpredictable Juries
- Avoiding Bad Faith



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