

— THE LAWSUIT REFORM THAT —
MINNESOTA NEEDS NOW



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Introduction

The benefits of a balanced and efficient tort system include reductions in insurance costs, an improved business and job-creation climate, and greater economic competitiveness.

As this report demonstrates, Minnesota has plenty of room for improvement, especially in comparison to neighboring states. According to the Pacific Research Institute's (PRI) Tort Liability Index, which analyzes each state according to the fairness and efficiency of its laws, Minnesota ranks 45th, worse than Wisconsin, Iowa, and North and South Dakota.

In many areas, Minnesota's tort liability system is skewed in favor of lawyers at the expense of consumers and job creators. On issues from statute of limitation to attorneys' fees to venue and jurisdictional laws, Minnesota is somewhat of an island. While surrounding states, Wisconsin in particular, have improved their business climate with common sense tort reforms, Minnesota continues to lag behind.

However, there is reason to be optimistic. In recent years, legislators of both parties have demonstrated a desire to enact many of the reforms that have made Minnesota's neighbors more competitive. We hope the benefits of tort reform, as detailed in this report, are cause for the governor and legislature to work together to bring about a fairer and more prosperous Minnesota.

Executive Summary

A fair and efficient system of tort liability plays a critical role in a prosperous society. By ensuring accountability, fostering trust, and encouraging innovation, a properly structured legal system is a vital component of a market-based economy.

Unfortunately, America's tort liability system is widely recognized to be excessively costly and inefficient, reflecting the poor quality of many of the state systems that comprise it. The latest estimates put annual direct costs at \$264.6 billion, or \$857 per capita.¹ And conservative estimates of indirect costs—deadweight costs, transition costs, and various negative spillovers—are more than three times that amount.² The numbers clearly suggest reform is needed to sustain and encourage a healthy economy. This report demonstrates that Minnesota's tort system, in particular, is in need of meaningful reforms to rein in excess costs and fix unbalanced rules so that its citizens can benefit from the rewards of a free and fair society.

In addition to assessing the current state of Minnesota's tort liability system, this report suggests several ways state government can enact meaningful reform. The final section provides an overview of numerous benefits Minnesotans can expect to realize from following through with these much needed reforms.

I. Where Does Minnesota’s Tort System Stand Today?

Various indicators of relative tort system health suggest that improvement is needed if Minnesotans want to enjoy the benefits that result from fair and efficient courts. By considering several measures of fairness and efficiency, and using the most recent data available, this section demonstrates that Minnesota’s tort laws currently rate behind those in much of the nation. Perhaps more importantly, Minnesota courts are shown to be more costly and susceptible to abuse than courts in neighboring states, with whom Minnesota is in greatest competition for jobs and business investments.

Tort System Costs

One way to assess the health of state tort systems is to compare their relative costs in various areas of liability using loss ratios. Loss ratios are direct losses incurred for a particular line of liability insurance divided by a line-specific denominator, which allows for comparisons across states that are different in size. For example, loss ratios for medical-malpractice insurance are calculated by dividing direct medical-malpractice insurance losses by state health-care expenditures.

“IN THE MOST RECENT ASSESSMENT OF RELATIVE TORT COSTS, MINNESOTA RANKS AROUND THE MIDDLE OF THE PACK (23RD LOWEST).”

In the most recent assessment of relative tort costs, Minnesota ranks around the middle of the pack (23rd lowest). However, the state varies considerably with respect to costs in specific areas of tort liability.³ For example, commercial self-insurance costs are on the lower end (12th lowest in the nation). But Minnesota ranks 49th, or second highest in the nation, in costs associated with the liability portion of homeowners’ multiple peril insurance. Only Louisiana ranks worse in this specific area, and these data are undoubtedly influenced by the rebuilding effort in the aftermath of Hurricanes Katrina and Rita.

Although Minnesota ranks better than many other states in tort system costs, it ranks worse than all of its nearest neighbors. North Dakota, South Dakota, Iowa, and Wisconsin rank 5th, 3rd, 20th, and 13th lowest, respectively.

Tort System Inputs

A second method for assessing tort climates is to analyze laws on the books. These are the system inputs—the specific rules and reforms that shape state legal systems. This assessment is done by creating an index using the methodology of the Pacific Research Institute’s (PRI) *Tort Liability Index: 2010 Report*. States are ranked in the general domains of: monetary caps on awards, substantive-law rules, procedural and structural institutions, and overall. The data analyzed are current as of January 2012.⁴

This approach ranks Minnesota 45th—nearly last—in the fairness and efficiency of its laws. By comparison, the neighboring states North Dakota, South Dakota, Iowa, and Wisconsin, rank 32nd, 31st, 40th, and 16th, respectively. These results, derived from a rigorous analysis of laws in 29 different areas, illustrate the numerous vulnerabilities of Minnesota’s tort liability system.⁵

While Minnesota’s laws rank among the bottom half of states in each domain studied, some areas rate worse than others. In the area of caps on damages—which includes caps on appeal bonds, noneconomic damages, and punitive damages—the state comes in 28th. In the substantive-law reform category—measuring things like attorneys’ fees and aspects of products liability and medical malpractice law—Minnesota ranks 37th. And finally, in the procedural and structural law and institutions category—which includes, among other things, venue rules, judicial selection, and statutes of limitations—the state ranks 48th.

Although some may be inclined to object to the use of particular variables or the coding scheme, the ranking procedure has strong support.

The 29 areas of law included for analysis were selected because there is convincing scholarly evidence of a unidirectional effect of that variable on the tort system or the economy.⁶ Given this prior evidence, laws were coded such that those resulting in greater fairness and/or economic efficiency were given a better score. Scores within domains were averaged and ranked to allow for category-specific comparison. And scores across all variables were averaged and ranked to provide an overall evaluation of state tort laws. In other words, Minnesota’s poor overall ranking indicates a significant vulnerability in its legal system.

Lawyer Density

The ranking described above provides a comprehensive picture of the legal inputs to state tort environments—those aspects that lawmakers can directly affect. However, it is also worth considering another indicator of legal climate that affects both costs and the laws on the books: lawyer density.

Minnesota is among the states with the most lawyers per capita (6th highest) and lawyers per dollar of state GDP (9th highest) in the United States.⁷ Both of these measures of attorney density are correlated

with having a worse inputs index ranking. In fact, the ten states with the worst rankings have an average lawyers-per-dollar-GDP statistic that is 19 percent higher than the ten best ranking states (which includes Minnesota’s neighbors North Dakota, South Dakota, and Iowa). When considering lawyers per capita, that average increases to 37 percent. The nature of the relationship is likely to be causal in both directions—litigation-friendly environments attract more lawyers, and lawyers have the most power to create laws conducive to more litigation and higher awards when they are greater in number.⁸

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Tort Caseload

Tort caseload is perhaps the best measure of a state’s litigiousness. Unfortunately, the best available data are far from complete. Data from the National Center for State Courts show thirteen states with either missing numbers or severe underreporting for 2009, the most recent year for which any data are available. Thus, rankings of tort caseload must rely on imputed data for these thirteen states and should not be considered as reliable as other measures of tort system health.⁹

Minnesota ranks relatively well in this measure. The state’s tort caseload is 11th lowest if measured per capita, and 8th lowest if measured

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per dollar state GDP. However, this is behind North Dakota (2nd lowest in both measures), and within close range of both Iowa (12th and 13th lowest, respectively) and Wisconsin (15th and 16th lowest, respectively). Neighboring state South Dakota ranks much worse (41st and 34th, respectively)—though their caseload figure was

imputed, and so it is inherently less reliable. Thus, it seems fair to infer that Minnesota’s tort caseload is about on par with that of its nearest neighbors.

Perceived Fairness

A regularly published report by the U.S. Chamber Institute for Legal Reform ranks the 50 states on the basis of perceived fairness in various areas of tort law by general counsel and senior litigators for U.S. businesses.¹⁰ In a recent report, Minnesota ranked 11th best—behind North Dakota (2nd), Iowa (5th), and South Dakota (10th), but ahead of Wisconsin (22nd). While subjective, the evaluations that determine these rankings are important in that they may be considered when deciding where to open a new business, expand operations, or hire

new employees. However, it should be noted that perceptions often lag behind current tort conditions, and so these particular rankings may not signal current differences in fairness. Since the Chamber's report is based on an attitudinal survey of lawyers, general counsels, and other corporate legal professionals, it is not an objective measure.

These findings present numerous reasons for concern for Minnesotans. Not only are tort costs higher than in nearby states, Minnesota tort laws are among the least fair and least efficient in the nation. Thus, the state has become one of the most attractive to attorneys. While the state seemingly measures well in caseload statistics and perceived fairness, these somewhat less precise measures of current tort conditions suggest Minnesota is about on par or behind most of its nearest neighbors. Efforts to rein in excess costs and repair legal vulnerabilities would make the state less attractive to lawyers, but more competitive for business investment and jobs.

II. The Tort Reforms that Minnesota Needs Now

The index of system inputs described in the previous section and recent legislative efforts at reform provide good starting points for considering aspects of Minnesota's tort system that are most in need of modification. For example, the analysis of state rules and reforms shows that Minnesota laws are comparatively weak in a large number of areas. In fact, the state scores the lowest in 12 out of the 29 fields. Further, the set of reforms that the legislature attempted to enact in the last two years reflect those areas specifically identified by state lawmakers to be in most urgent need of reform.

This section discusses six areas of reform that Minnesota lawmakers should emphasize in upcoming legislative sessions to increase the fairness and efficiency of the state's tort system.

Class Action Rules

Many states have sought to curb the use of class action suits as a vehicle for lawsuit abuse through the implementation of stronger rules for class certification and by providing for immediate appeal of class certification orders. Put simply, weak standards for class certification can provide for dissimilar individuals being grouped as plaintiffs into large classes, oftentimes without their knowledge. This exerts great pressure on defendants to settle to avoid costly litigation.¹¹ Individual plaintiffs in these large classes often receive nearly nothing, or small-value coupons, while plaintiffs' lawyers walk away with millions of dollars in legal fees. In order to combat this problem, some states, like Ohio, provide for interlocutory (interim) appeal of class certifications. Others, like Georgia, go further in specifying a detailed procedure for filing and class certification in addition to providing for interlocutory appeal. Minnesota does neither.

Reforms of the sort described above establish a gatekeeping effect that benefits both legitimate claimants and defendants. Checks are established to allow meritorious claims through and keep dissimilar claims separate, thus allowing for a more efficient use of court resources. In

addition, fairness is promoted, as defendants have less incentive to settle based solely on the costliness of litigation.

In its last legislative session, the Minnesota state legislature passed a bill, S.F. 149, that sought to provide a right to interlocutory appeal of: class certification, refusal to certify a class, or denial of a motion to decertify a class. The bill was vetoed by Governor Mark Dayton, but lawmakers should reconsider the proposal in light of Minnesota's current vulnerabilities.

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Determination of Attorneys' Fees

Contingency fee arrangements allow plaintiffs to acquire legal services for a percentage of their award if their claim is successful, and at no cost if they do not recover damages. While expanding access to legal services, contingency fee arrangements may also result in outcomes that hurt both plaintiffs and defendants if left without explicit guidelines. Such arrangements incentivize unethical behavior by plaintiffs' lawyers for purposes of extracting excessive awards from defendants and gaining what equates to a much larger hourly rate than what is received by their defense counterparts.¹² To remedy this problem while retaining the benefit of expanded access to legal services, some states, like Illinois, provide a sliding scale for the determination of contingency fees that reflect the total recovery amount. Others, like Nebraska, allow courts to review contingency fees for reasonableness in medical and professional liability cases.

Minnesota should require courts to consider, among other factors, the reasonableness of attorney fees in contingency arrangements.

This slight adjustment to the state’s tort law would strongly improve current law, which only requires that contingency fees reflect total recovery adjusted for collateral source benefits in medical liability cases.

Venue

Venue laws are rules that specify whether a case can be heard within a particular jurisdiction. Without clear guidelines, or with weak rules, forum shopping—a phenomenon where lawyers seek out jurisdictions in which to file cases that are known to have a pro-plaintiff bias and in which they can expect the largest awards—very often occurs.¹³ In order to prevent forum shopping, some states have reformed venue laws to limit a plaintiff’s ability to file in a jurisdiction other than one of the following: where the damage is alleged to occur, where the plaintiff resides, where the defendant resides, or where the defendant company’s principal place of business is located. Mississippi has passed such a reform, and further requires that each plaintiff establish proper venue.

Minnesota’s venue laws rank poorly in a national comparison. Although the state legislature has not recently sought to correct this issue, such a move would provide the state an advantage over neighbors North Dakota, South Dakota, Iowa, and Wisconsin—all of which have also failed to enact meaningful venue reform. The guidelines established in Mississippi’s venue reform provide a good model for legislation.

Standard for the Scientific Review of Evidence by Expert Witnesses

Different states have adopted a variety of standards for the admissibility of scientific review of evidence by expert witnesses, an area that affects both plaintiffs and defendants. Under weak standards, admissible evidence on either side may include testimony of a questionable nature or that reflects the agenda of particular interest groups. Stricter standards create a fairer, efficient, and more science-based civil justice system that allows either party to disqualify experts whose testimony is without firm grounding.¹⁴

The weakest standard, established in *Frye v. United States* (293 F. 1013, D.C. Cir. 1923) and used in some states like California, requires that the method of scientific review of evidence have only “general acceptance” in the relevant field for it to be admissible in court. On the other hand, the strongest standard, established more recently as the federal standard in *Daubert v. Merrell Dow Pharmaceuticals* (509 U.S. 579, 1993) and used in several states including South Dakota, requires that expert testimony not only have general acceptance but be supported by “good grounds.” Some states have adopted modified versions of *Daubert*, and others have opted for an alternative state standard.

Although about half of all states have adopted the federal standard as established in *Daubert*, including most recently Wisconsin and Alabama in 2011, Minnesota still retains the standard established in *Frye*. Adopting the stronger standard would ensure greater fairness and more just outcomes.

Statute of Limitations

A state’s statute of limitations defines the maximum amount of time after an alleged act of negligence that a tort claim can be initiated. Long statutes of limitations make it harder to try some cases in a fair manner, as a lengthy interim practically guarantees some loss in memory and documentation, in addition to risking the loss of important witnesses. For this reason, some states have shortened the statute of limitations to a period within which parties can be expected to recall incidents fairly well and causation is more apparent. This approach also has the benefit

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of reducing a state's total caseload, and lessening adverse effects on related areas like medical costs.¹⁵

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Most states define periods for the initiation of a tort depending on the nature of the claim. For example, Minnesota currently provides a four year window from alleged injury or treatment for medical malpractice cases, but a six year window for most other negligence-based claims. A recent bill that was passed by the state legislature but vetoed by Governor Mark Dayton, S.F. 373, would have reduced the

general statute of limitations to four years. Reducing the statute of limitations to four years would allow sufficient time to initiate a tort claim, while ensuring fairer trials and more efficient and effective use of courts.

Pre-judgment Interest

Many states have adopted rules that provide for the accumulation of pre-judgment interest in order to encourage early settlement and more highly compensate plaintiffs who had to wait to be made whole. Though well intended, the data show that allowance of pre-judgment interest is actually associated with higher filing rates.¹⁶ Further, holding defendants responsible for delays they may not have caused often results in unjustly large awards. For these reasons, a number of states have enacted reforms that either reduce or index interest rates, or eliminate pre-judgment interest entirely. Alabama, for example, recently reduced pre-judgment interest from 12 to 7.5 percent. And Minnesota, like a number of other states, prohibits assessment of pre-judgment interest on awards for future damages.

Minnesota currently sets pre-judgment interest at 10 percent in cases where damages exceed \$50,000. However, a recent legislative bill, S.F. 530, would have indexed the interest rate—a minimum rate of 4 percent—and prohibited assessment of interest on punitive damages. The lower rate would also encourage timely resolution of cases and discourage the current practice of plaintiffs' counsel needlessly prolonging cases, further straining an overburdened system. Though the bill was passed by the state legislature, it was vetoed by Governor Mark Dayton. The state legislature is well advised to take up pre-judgment interest reform again in the current legislative session, as the current high rate incentivizes more litigation.

III. How Minnesota Will Benefit from Tort Reform

The benefits of tort reforms are far-reaching. When a tort system is made fairer and more efficient everyone gains from the lower costs and numerous economic improvements. However, many states—including Minnesota—have been relatively slow to rein in tort liability excess. This section will elaborate on several areas in which tort reform has been linked to positive social and economic outcomes. In so doing, it will show why failure to reform comes at a great expense in terms of general wellbeing, and future economic growth.

Reduction in Tort System Costs

A recent PRI study finds that a comprehensive package of 18 tort reforms would significantly lower tort costs in Minnesota in a number of areas.¹⁷

“...A COMPREHENSIVE PACKAGE OF 18 TORT REFORMS WOULD SIGNIFICANTLY LOWER TORT COSTS IN MINNESOTA IN A NUMBER OF AREAS.”

The rigorous statistical analysis includes a series of multivariate regressions that determine the independent and cumulative effects of various reforms on losses and insurance costs in a number of areas affected by torts—including medical malpractice and products liability. The cumulative effect of enacting these reforms is un-

ambiguously positive: a lowering of losses by 47 percent and reduction of annual insurance premiums by 16 percent. These results are supported by similar findings from a study by Meredith L. Kilgore and colleagues that shows medical-liability reforms lower doctors’ medical-malpractice premiums up to 25 percent.¹⁸

As noted earlier in this report, Minnesota could stand to lower tort costs. The state currently ranks in the middle of the pack in terms of relative tort costs, but ranks worse than each of its most immediate neighbors. And according to the most recent data available on

absolute costs, the Minnesota tort system is among the more costly half of states, at a total of \$2.12 billion—or roughly \$406 per capita—in 2008.¹⁹ This puts the state at a relative disadvantage to its neighbors who have less burdensome tort systems.

For example, instituting reforms to reduce the per capita cost to that of South Dakota (\$289) would bring the absolute cost down nearly 30 percent to \$1.5 billion.

Improved State Economic Performance

A healthy state tort system is associated with various indicators of strong economic performance. Using our rankings of tort rules and reforms, Lawrence McQuillan and I compare the economic performance of states ranking in the top 10 of our 2006 index with those ranking in the bottom 10.²⁰ The results, again, are unambiguous. During that year, job growth was 57 percent greater in the best ranking states, and labor-earning growth was more than 5 percent greater. Perhaps most telling, Gross Domestic Product (GDP)—a common comprehensive measure of economic activity—grew 25 percent faster in the 10 best ranking states, compared with the 10 worst ranking states.

We also find that tort system health is related to state fiscal health. Despite having effective tax rates that were on average eight percent lower than the 10 worst ranking states, the top 10 states had an average growth rate of tax revenue that was 24 percent greater.

Not only does money flee states with predatory tort climates, but so do people. State-to-state migration rates revealed a 232 percent difference between the states at the top and those at the bottom of our rankings. The difference is actually more striking than the migration gap would suggest; states ranking in the top 10 had a net inflow of people, whereas those ranking in the bottom 10 showed a net outflow. While lawyers are drawn to states with more predatory legal climates, the data show that everyone else is repelled.

Increased Productivity and Employment

It should be no surprise that when companies are able to free up vast amounts of resources from defending against excess unnecessary litigation, productivity is increased. A study designed to assess the impact of lawsuit reform on labor productivity by Thomas J. Campbell, Daniel P. Kessler, and George B. Shepherd affirms this intuition.²¹ The authors find that from 1972 through 1990, reform-minded states had labor-productivity gains about 2 percent greater and manufacturing gains about 2.7 percent greater than states that did not enact reform. In current dollars, this translates to an increased output of about \$1,230 per worker each year in labor productivity. In manufacturing, specifically, the increase is about \$2,070 per worker each year.

As the earlier numbers on job growth indicate, tort reform also increases employment. A rigorous study by Lisa Kimmel on the effects of six common tort reforms on employment in various sectors clearly demonstrates this strong relationship.²² The analysis shows that the enactment of just one of the six reforms increases employment in manufacturing by 1.5 percent, construction by 1.4 percent, wholesale trade by 0.8 percent, automobile repair by 1 percent, and local and interurban transit by 1.5 percent. Although the enactment of one reform leads to a cut of 1 percent in legal sector employment—further supporting the link between a predatory tort environment and greater lawyer density—the overall effect is to increase total employment by 1 percent. To put this in perspective, if Minnesota added just one of the reforms studied by Kimmel, it would allow for the creation of more than 26,000 new jobs.

Greater Innovation and Sales

The effect that a state's tort system has on innovation is dependent on the amount of liability found in the particular state. In an efficient tort system, innovation is encouraged as producers internalize liability costs associated with having to compensate allegedly harmed consumers. The result is investment in safer technologies and improved products. However, when a system is fraught with excess liability you can expect

to find attenuated levels of innovation. This is because excessive liability costs are covered by diverting resources away from research and development (R&D); rather than go into innovation, money goes toward settling more lawsuits and paying judgment awards, higher insurance premiums, and additional legal needs.

An analysis by W. Kip Viscusi and Michael J. Moore calculates the tipping point at which additional liability reduces investment into innovation for a number of industries.²³ The authors find that 13 manufacturing industries exceed the industry-specific optimal levels of liability and thus are driven to shrink innovation.

The importance of this link between a state's tort climate and innovation is further illuminated by a recent PRI study that finds that, in 2006 alone, reductions in product R&D and process R&D resulting from excess liability cost the U.S. \$367 billion in sales of new products. The lesson is clear. Cutting excess liability results in greater levels of innovation, sales, and safety—outcomes that would provide benefits for both Minnesota businesses and consumers.

Greater Health Care Access and Lower Costs

A predatory legal climate not only harms business, but it also hurts the proper practice and availability of medical care. Consider that fear of lawsuits is estimated to motivate about nine out of 10 physicians to order superfluous tests and unneeded referrals—a practice known as “defensive medicine.”²⁴ The cumulative effect of these added costs is estimated to be roughly 8 percent of total health care expenditures each year.²⁵ To put this in perspective, in 2008 this translated to \$191 billion in extra expenditures for health care. And according to a PRI study,

“A PREDATORY LEGAL CLIMATE NOT ONLY HARMS BUSINESS, BUT IT ALSO HURTS THE PROPER PRACTICE AND AVAILABILITY OF MEDICAL CARE.”

getting rid of defensive medicine—in other words, cutting total health care costs by \$191 billion per year—would allow 3.4 million currently uninsured Americans to afford health insurance.²⁶

Fewer Accidental Deaths

Decreasing liability costs through tort reform also saves lives. A study by Paul H. Rubin and Joanna M. Shepherd found that various tort reforms passed between 1981 and 2000 decreased fatal accidents on net by 24,000 over that time period.²⁷ The mechanism was an interaction between more efficient courts and working markets. Lowering expected liability costs leads to lower prices and increased supply and purchase of risk-reducing products, such as medicines, safety equipment, and medical services.

Conclusion

The legal and economic literature makes clear that there are many positive outcomes resulting from the enactment of tort reform. And because there are so many areas for improvement in the state's tort laws, Minnesota is especially well suited to take advantage of these benefits.

The legal reforms proposed in this report will promote job growth, improve our state's business climate, foster innovation, reduce health care costs, and provide myriad economic and social benefits to the citizenry of Minnesota. Our reform-minded neighboring states are already enacting these reforms, and reaping the attendant benefits. Minnesota must do the same to remain economically competitive in the future. As businesses and individuals become increasingly mobile, our state can simply not afford to become an island of tort liability excess. Businesses and taxpayers will vote with their feet, and with their jobs.

We urge the governor and state legislature to consider these modest and common-sense reforms. It is our hope that policymakers work together to create a fairer, more efficient tort liability system in Minnesota, to rein in excess, and to lay the groundwork for significant and sustained economic growth.

Appendix: Ranking of State Tort Systems

State	Tort System Costs	Tort System Inputs	Lawyer Density (GDP)	Lawyer Density (population)	Tort Caseload (GDP)	Tort Caseload (population)	Perceived Fairness
1. Alabama	18	20	35	24	36	32	47
2. Alaska	2	22	7	35	6	16	33
3. Arizona	17	15	9	4	29	25	13
4. Arkansas	26	30	15	1	33	27	44
5. California	28	28	37	44	14	19	46
6. Colorado	41	4	31	42	7	9	8
7. Connecticut	36	33	46	48	46	49	24
8. Delaware	21	29	1	28	38	47	1
9. Florida	43	17	38	34	39	39	42
10. Georgia	25	12	24	22	49	46	27
11. Hawaii	1	41	22	27	4	5	35
12. Idaho	12	26	20	5	5	3	18
13. Illinois	48	48	48	47	20	24	45
14. Indiana	34	11	10	7	32	33	4
15. Iowa	20	40	8	10	13	12	5
16. Kansas	16	8	21	19	17	17	14
17. Kentucky	42	44	30	23	22	18	40
18. Louisiana	8	14	32	41	26	31	49
19. Maine	7	42	27	18	12	6	12
20. Maryland	29	46	33	39	23	28	20
21. Massachusetts	19	13	49	49	25	37	9
22. Michigan	47	7	42	33	27	23	30
23. Minnesota	23	45	41	45	8	11	11
24. Mississippi	10	6	28	9	44	36	48
25. Missouri	40	21	47	43	47	43	37
26. Montana	45	36	36	26	40	34	43
27. Nebraska	39	24	19	21	1	1	3
28. Nevada	44	34	4	11	43	45	28
29. New Hampshire	32	10	12	16	21	22	16
30. New Jersey	50	18	39	46	50	50	32

State	Tort System Costs	Tort System Inputs	Lawyer Density (GDP)	Lawyer Density (population)	Tort Caseload (GDP)	Tort Caseload (population)	Perceived Fairness
31. New Mexico	31	47	23	14	41	38	41
32. New York	46	49	50	50	37	44	23
33. North Carolina	4	27	5	6	15	13	17
34. North Dakota	5	32	2	3	2	2	2
35. Ohio	9	3	34	32	35	35	29
36. Oklahoma	30	1	43	31	31	29	31
37. Oregon	37	35	26	30	24	26	21
38. Pennsylvania	49	43	40	38	10	8	34
39. Rhode Island	33	50	44	40	42	42	38
40. South Carolina	15	9	14	2	45	40	39
41. South Dakota	3	31	6	8	34	41	10
42. Tennessee	24	5	18	15	30	30	19
43. Texas	11	2	16	29	9	10	36
44. Utah	22	19	13	12	11	7	7
45. Vermont	38	39	45	37	19	14	25
46. Virginia	6	25	11	20	48	48	6
47. Washington	35	38	25	36	18	21	26
48. West Virginia	14	37	29	13	28	20	50
49. Wisconsin	13	16	17	17	16	15	22
50. Wyoming	27	23	3	25	3	4	15

Hovannes Abramyan is coauthor of the 2006, 2008, and 2010 editions of the *U.S. Tort Liability Index*; *Tort Law Tally: How State Tort Reforms Affect Tort Losses and Tort Insurance*; and *Jackpot Justice: The True Cost of America's Tort System*. Mr. Abramyan has provided commentary for television and nationally syndicated talk radio shows, and has had opinion pieces published in numerous outlets including the *Wall Street Journal*, *New York Post*, *Investor's Business Daily*, and *Forbes*.

Abramyan earned a B.A. in political science from the University of California at Berkeley, graduating with honors distinction. He recently earned an M.A. in political science from the University of California at Los Angeles, where he is currently a doctoral student in political science.

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- 3 Data come from the A.M. Best Company for 2008 and are presented in Chapter 2 of Lawrence J. McQuillan and Hovannes Abramyan, *Tort Liability Index: 2010 Report* (San Francisco: Pacific Research Institute, 2010).
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- 5 For a detailed discussion of the variables used to construct the index see Chapter 3 of *Tort Liability Index: 2010 Report*.
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