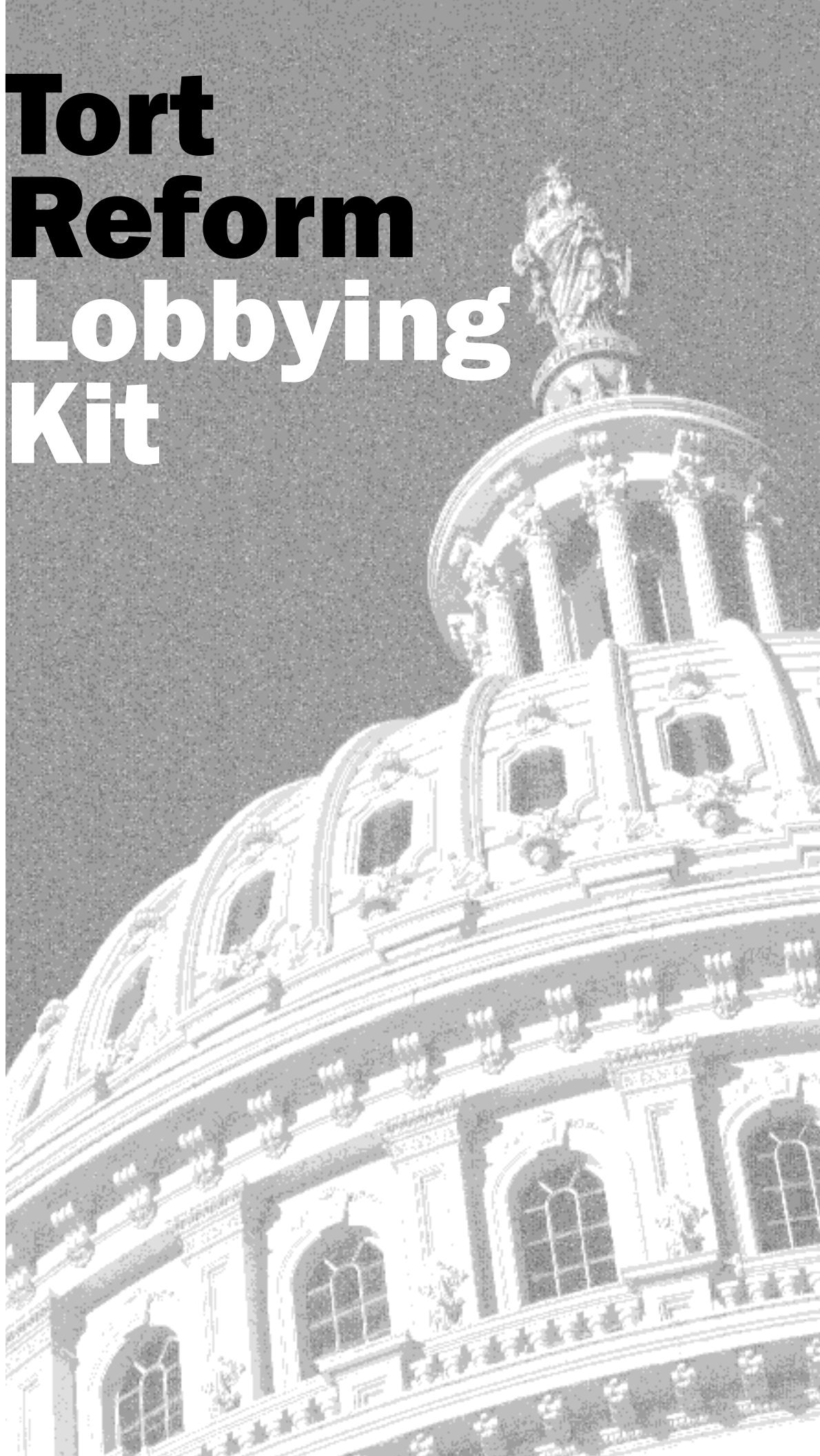




# Reform Begins With You!

# Tort Reform Lobbying Kit

**HAI Legislative Affairs**  
1635 Prince Street  
Alexandria, Virginia 22314  
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[www.rotor.com](http://www.rotor.com)





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# 2006 Tort Reform Lobbying Kit



Dear HAI Member:

Congress handed the business community several big legislative victories in 2005, including passage of legislation limiting class action lawsuits. Major business groups, including HAI and other tort reform advocates, are hoping to extend their gains when Congress convenes the 2nd session of the 109th Congress.

President Bush signed Public Law 109-2 on February 18, 2005 giving federal courts jurisdiction over class action suits when the total amount in dispute exceeds \$5 million, and when the defendant and a large percentage of the plaintiffs reside in different states. The law helps prevent "venue shopping," in which attorneys file their lawsuits in jurisdictions where plaintiffs often win large awards. Enactment of this legislation was the capstone of a six-year effort in Congress.

The U. S. House of Representatives passed H.R. 420 on October 27, 2005 to address the number of meritless lawsuits, effect changes in civil procedures rules adopted by the courts in 1993, and to eliminate a rule that allows lawyers to avoid sanctions by quickly withdrawing meritless claims. The House passed similar legislation in the 108th Congress, yet the Senate has never considered the measure.

The HAI Tort Reform Lobbying Kit has been updated to reflect changes that have occurred since its initial publication in 2004. I encourage you to continue to support federal tort reform and participate in state tort reform.

HAI believes tort reform will help decrease high commercial aviation insurance rates, which have risen by as much as 60 percent since the terrorist attacks of September 11, 2001. Punitive damages reform, non-economic damages reform, class action reform, collateral source rule reform, venue shopping, as well as joint and several liability rule reform remain important to changing the laws that impose civil liability.

Your participation is important! The information contained in this lobbying kit will help you get started. HAI stands ready to help you in your efforts. Should you have further questions, or need additional information, contact HAI Legislative Affairs at 703-683-4646.

Tort Reform remains high on the list of HAI priorities, your support is critical. Thank you for your assistance in this worthy endeavor that affects our entire industry.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew S. Zuccaro".

Matthew S. Zuccaro  
President

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# 2006 Tort Reform Outlook

**A number of states** will be in fiscal-only sessions or will hold no regular legislative sessions in 2006, while the focus in other states will be on elections in the fall. A significant level of reform activity is anticipated as lawmakers continue to tackle traditional civil justice reform issues, such as medical liability and joint and several liability, as well as emerging issues such as the abuse of state consumer protection laws.

## Alabama

**Session Dates:** January 10, 2006 to April 24, 2006

Civil justice reform proponents are expected to push a package of bills similar to 2005, including:

- **SB 240 and HB 285** set post-judgment interest to one-year constant Treasury yield (current law sets prejudgment interest at 12 percent per annum).
- **HB 257** establishes minimum evidentiary standards for the recovery of non-economic (pain and suffering) awards as well as placing a limit on such awards to three times economic damages.
- **HB 278** product liability reform providing for innocent seller/distributor protections, a 15-year statute of repose, and an increased standard for the award of punitive damages.

## Florida

**Session Dates:** March 7, 2006 to May 5, 2006

Florida lawmakers will consider a broad range of civil justice reform bills during 2006. At the top of the agenda for civil justice reform advocates is the abolishment of joint and several liability (**HB 145**). Other issues that will be considered include: class action reform, sheriff's immunity for high-speed chases, vaccine immunity, and appeal bond reform.

## Georgia

**Session Dates:** January 9, 2006 to April 7, 2006

Observers expect 2006 to be a fairly quiet year with regard to new legislation. However, plaintiffs' attorneys have already mounted legal challenges to many of the provisions in SB 3, including the venue statute, the offer of settlement/judgment statute, and the expert witness rule. Judges in these cases have ruled on both sides of the issue with some declaring provisions unconstitutional and others deciding that the very same language is constitutional. The legal battles that ensued with last year's legislation are expected to continue.

## Hawaii

**Session Dates:** January 18, 2006 to May 3, 2006

The primary issue for Hawaii this year will be medical liability reform. It is likely that plaintiffs' attorneys will introduce consumer litigation legislation dealing with anti-trust and unfair and deceptive practice laws.

## Illinois

**Session Dates:** January 11, 2006 to April 7, 2006

Civil justice reform proponents have introduced legislation that covers a broad range of reforms, including:

- **SB 2890 and HB 4982** ALEC's Full and Fair Non-economic Damages Act
- **SB 2891** jury service reform
- **SB 2892 and HB 4983** expert witness/expert evidence reform
- **SB 2893 and HB 4981** joint and several liability reform
- **SB 2984 and HB 4984** asbestos reform

## Indiana

**Session Dates:** January 4, 2006 to March 10, 2006

■ **HB 1277** was introduced in early 2006 and would require a court to award attorney fees to the prevailing party in a civil action. The "loser pays" legislation currently is being considered by the Indiana House Judiciary Committee.

## Iowa

**Session Dates:** January 9, 2006 to April 19, 2006

The business community will pursue several pieces of civil justice reform legislation in 2006, including limits on non-economic, punitive and exemplary damages, medical malpractice, prejudgment interest, obesity litigation reform, and limits on liability for government-approved products. Observers predict that the Governor and Attorney General likely will push for a statutory private cause of action for consumer fraud. Iowa currently is the only state without such a provision.

## Kansas

**Session Dates:** January 9, 2006 to May 26, 2006

In 2006, the business community will continue to be active and is expected to pursue a robust agenda including collateral source rule, appeal bond reform, increased standards for admitting expert witness testimony regarding scientific and technical evidence, and silica and asbestos legislation, which will be similar to legislation passed in Georgia in 2005.

## Kentucky

**Session Dates:** January 3, 2006 to April 11, 2006

Governor Ernie Fletcher (R) plans to push a tort reform agenda in 2006 focusing on limiting non-economic damages in medical malpractice and other liability lawsuits. The legislation most likely will take the form of a proposed constitutional amendment since limiting jury awards is unconstitutional in the state of Kentucky.

## Minnesota

**Session Dates:** March 1, 2006 to May 19, 2006

No new civil justice reform legislation is expected to be introduced during the 2006 session. However, the Legislature will be taking up several bills from the 2005 session that are still active:

- **HF 1845 and SF 1733** both pertain to attorneys' fees and

would give the courts more discretion in determining the reasonableness of attorneys' fees in relation to actual damages awarded. The House version of the bill also contains offer of judgment language.

■ **HR 1325 and SF 1416**, class action reform bills, are currently pending in committees of their house of origin. Since chairs of both the House and Senate committees are not known as being friendly to civil justice reform issues, observers expect to face an uphill battle in getting this legislation out of the committee.

## New York

**Session Dates:** January 4, 2006 to January 3, 2007

Although New York state politics is dominated by the trial bar, tort reform advocates have had legislation introduced to at least put civil justice reform issues before lawmakers.

■ **S. 3823 and A. 2946** eliminate strict liability for contractors who provide safe work places, bars recovery for injuries caused mainly by a plaintiff's own negligence, provides job reference liability protections, eliminates vicarious liability for automobile leasing companies, and provides for product liability reform.

■ **S. 1533 and A. 269** adopt a two-year statute of repose

■ **S. 4189** eliminates joint and several liability in most cases

■ **S. 4191** limits non-economic damages to \$250,000, requires certificate of merit and a list of all expert witnesses, and reduces the threshold for periodic payments to \$50,000

Personal injury lawyers are expected to pursue a robust agenda, which will require civil justice reform advocates to focus their energies on the following defensive efforts:

■ **S. 1066 and A.7513** eliminate the use of protective orders to keep discovery materials confidential.

■ **S. 54** amends state law to allow an award in wrongful death lawsuits to include compensation for non-economic damages identified as grief, anguish, and loss of love, support, companionship, nurture, and guidance.

## Oklahoma

**Session Dates:** February 6, 2006 to May 26, 2006

Civil justice reform proponents are again expected to pursue a comprehensive tort reform package. Provisions are likely to include: a 10-year statute of repose, elimination of joint and several liability, class action reform, increased standard for the admissibility of expert witness/evidence, collateral source rule reform, a \$350,000 limit on non-economic damages, medical liability reform, and product liability reform.

## Pennsylvania

**Session Dates:** January 3, 2006 to November 30, 2006

In July 2005, the Pennsylvania Commonwealth Court ruled that the Fair Share Act, which established proportionate liability, was unconstitutional because it violated the single subject rule of the state's constitution. As a result, both House and Senate bills are being introduced in the 2006 session in an effort to re-establish the Fair Share Act. **SB 435** would eliminate joint and several liability in cases where the defendant is found to be less than 60 percent responsible and replaces it with proportionate liability. **HB 138** is similar legislation.

## Rhode Island

**Session Dates:** January 3, 2006 to June 26, 2006

The business community plans to pursue a robust civil justice reform agenda in 2006, including: pre and post judgment interest, joint and several liability, comprehensive medical liability, obesity litigation, and consumer protection reform.

## South Carolina

**Session Dates:** January 1, 2006 to June 1, 2006

Civil justice reform advocates are expected to pursue a broad agenda in 2006, including: limiting damages, appeal bond caps, and worker's compensation. The House and Senate have already introduced bills for each of these issues:

■ **S. 926 and H. 4154** are bills that would limit non-economic damages to \$350,000 and punitive damages to \$350,000 or three times economic damages, whichever is less.

■ **S. 971 and H. 4363** would cap appeal bonds at \$10 million or 50 percent of a defendant's net worth, whichever is less.

## Washington

**Session Dates:** January 9, 2006 to March 17, 2006

Observers expect several pieces of civil justice reform legislation to be introduced in 2006, including: joint and several liability reform, caps on attorney fees, jury service reform, consumer protection reform, and seat belt defense. The civil justice reform community plans to pursue a partial restoration of sovereign immunity for state and local governments. The trial bar is also expected to pursue several pieces of legislation, including an expansion of wrongful death statutes and the consumer protection act.

## West Virginia

**Session Dates:** January 11, 2006 to March 13, 2006

Civil justice reform advocates are expected to continue to push for broad reforms during 2006. The introduction of a medical criteria asbestos reform bill is expected, similar in nature to what has been adopted in Florida, Georgia, and Texas. Appeal bond reform is likely to be considered this year. Legislation could also be considered that would limit damages, reform the collateral source rule, and increase standards for admitting expert witness testimony and expert evidence.

# Reforms at the State Level

## The Rule of Joint and Several Liability

Forty states have modified the rule of joint and several liability

**No modification: Alabama, Delaware, District of Columbia, Indiana, Maine, Maryland, North Carolina, Rhode Island, Tennessee and Virginia**

The rule of joint and several liability is neither fair, nor rational, because it fails to equitably distribute liability. The rule allows a defendant only minimally liable for a given harm to be forced to pay the entire judgment, where the co-defendants are unable to pay their share. The personal injury bar's argument in support of joint and several liability is that the rule protects the right of their clients to be fully compensated. Joint and several liability fails to address the hardship imposed by the rule on co-defendants that are required to pay damages beyond their proportion of fault.

Tort reform advocates support replacing the rule of joint and several liability with the rule of proportionate liability. In a proportionate liability system, each co-defendant is proportionally liable for a plaintiff's harm. For example, a co-defendant that is found by a jury to be 20% responsible for a plaintiff's injury would be required to pay no more than 20% of the entire settlement. More moderate reforms include: (1) barring the application of joint and several liability to recover non-economic damages; and (2) barring the application of joint and several liability to recover from co-defendants found to be responsible for less than a certain percentage (such as 25%) of the plaintiff's harm.

## The Collateral Source Rule

Twenty-three states have modified or abolished the collateral source rule.

**Georgia, Kansas, and Ohio have had reforms struck down as unconstitutional. No additional reforms enacted in Georgia and Kansas**

The collateral source rule of the common law says that evidence may not be admitted at trial to show that a plaintiff's losses have been compensated from other sources, such as insurance, or worker compensation. As a result, for example, 35% of total payments to medical malpractice claimants are for expenses already paid from other sources.

## Punitive Damages

Thirty-two states have reformed punitive damages laws.

**Illinois and Kentucky had reforms struck down as unconstitutional and no additional reforms have been enacted**

Punitive damages are awarded not to compensate a plaintiff, but to punish a defendant for intentional or malicious misconduct and to deter similar future misconduct. Although infrequent in the past, punitive damages awards have grown greatly in recent years in frequency and size. More importantly, they are routinely asked for today in civil lawsuits. The difficulty of predicting whether punitive damages will be awarded by a jury in any particular case, and the marked trend toward astronomically large amounts when they are awarded, have seriously distorted settlement and litigation processes and have led to wildly inconsistent

outcomes in similar cases.

Four reforms to punitive damages are recommended by tort reform advocates:

1. Establishing a liability "trigger" that reflects the intentional tort origins and quasi-criminal nature of punitive damages awards - "actual malice."
2. Requiring "clear and convincing evidence" to establish punitive damages liability.
3. Requiring proportionality in punitive damages so that the punishment fits the offense.
4. Enacting federal legislation to address the special problem of multiple punitive damages awards. This would protect against unfair overkill, guard against possible due process violations, and help preserve the ability of future claimants to recover basic out-of-pocket expenses and damages for their pain and suffering.

## Non-economic Damages

Twenty-three states have modified the rules for awarding non-economic damages.

**Alabama, New Hampshire, Oregon, Washington, and Wisconsin have had reforms struck down as unconstitutional and no additional reforms have been enacted**

Damages for non-economic losses are damages for pain and suffering, emotional distress, loss of consortium or companionship, and other intangible injuries. These damages involve no direct economic loss and have no precise value. It is very difficult for juries to assign a dollar value to these losses, given the minimal guidance they customarily receive from the court. As a result, these awards tend to be erratic and, because of the highly charged environment of personal injury trials, excessive.

The broad and basically unguided discretion given to juries in awarding damages for non-economic loss is the single greatest contributor to the inequities and inefficiencies of the tort liability system. It is a difficult issue to address objectively because of the emotions involved in cases of serious injury and because of the financial interests of a plaintiff's lawyer(s).

## Prejudgment Interest

Fifteen states have enacted prejudgment interest reforms

In the absence of an applicable statute or rule, the courts generally applied the traditional common law rule that prejudgment interest was not available in tort actions since the claim for damages was unliquidated. In an effort to compensate tort plaintiffs for the often-considerable lag between the event giving rise to the cause of action, or filing of the lawsuit, and the actual payment of the damages, many state legislatures have enacted laws that provide for or allow prejudgment interest in particular tort actions or under particular circumstances. In addition to seeking to compensate the plaintiff fully for losses incurred, the goal of such statutes is to encourage early settlements and to reduce delay in the disposition of cases, thereby lessening congestion in the courts. Although well intended, the practical effects of prejudgment interest statutes can be inequitable and counter-productive. Prejudgment interest laws can, for example, result in over-compensation, hold a defendant financially responsible for a delay he/she may not have caused, and

impede settlement.

At a time when policymakers are attempting to lower the cost of the liability system in an equitable and just manner, prejudgment interest laws that currently exist and new proposals should be reviewed to ensure that they are structured fairly and in a way designed to foster settlement. At a minimum, the interest rate should reflect prevailing interest rates by being indexed to the Treasury bill rate at the time the claim was filed and an offer of judgment provision should be included.

## **Product Liability**

**Sixteen states have enacted laws specifically to address product liability.**

**Illinois and North Dakota have had reforms struck down as unconstitutional and have not enacted additional reforms**

Product liability law is meant to compensate persons injured by defective products and to deter manufacturers from marketing such products. It fails, however, when it does not send clear signals to manufacturers about how to avoid liability or hold manufacturers liable for failure to adopt a certain design or warning even if the manufacturers neither know, nor could have anticipated, the risk.

## **Class Action Reform**

**Eight states have reformed class actions laws.**

**Alabama, Colorado, Georgia, Kansas, Louisiana, Missouri, Ohio, and Texas**

Once considered a tool of judicial economy that aggregated many cases with similar facts or similar complaints into a single action, class actions are now often considered a means of defendant extortion. Today, some class actions are meritless cases in which thousands, or millions, of plaintiffs are granted class status, sometimes without even notifying the defendant. In many of these cases, the victimized consumers often receive pennies, or nearly worthless coupons, while a plaintiff's counsel receives millions in legal fees. State class action reform can more equitably balance the interests of plaintiffs and the defendant.

## **Appeal Bond Reform**

**Thirty-three states have adopted Appeal Bond Reform**

**Connecticut, Maine, Massachusetts, New Hampshire, and Vermont do not require an appeal bond for a defendant to appeal a decision**

According to Lawyer's Weekly, USA, the total amount of 1999's top ten jury verdicts was three times higher than 1998's level, and 12 times higher than the 1997 total. While many of these verdicts are overturned or reduced on appeal, defendants in many states are required to post an appeal bond sometimes equal to 150 percent of the verdict in question. In an era when billion-dollar verdicts are no longer uncommon, appealing an outrageous verdict can force a company or an industry into bankruptcy. Appeal bond waiver legislation limits the size of an appeal bond when a company is not liquidating its assets or attempting to flee from justice.

## **Jury Service Reform**

**Twelve states have enacted Jury Service Reform**

**Alabama, Arizona, Colorado, Louisiana, Maryland, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Texas and Utah**

The right to a trial by a jury of one's peers is one most Americans support and take for granted. Recently, however, our juries are becoming less and less representative of the community. Some studies indicate that up to 20% of those summoned for jury duty do not respond and some jurisdictions have an even higher no-show rate. Occupational exemptions, hardship excuses, lack of meaningful compensation, long terms of service and inflexible scheduling result in a jury pool that makes it difficult for working Americans to serve on a jury and disproportionately excludes the perspectives of many people who understand the complexity of issues at play during a trial. Tort reform supporters believe that legislation to improve the jury system is needed so defendants and plaintiffs alike receive a fair trial. Legislation is needed to:

- 1.** Eliminate occupational exemptions that allow members of certain professions to opt-out from jury service.
- 2.** Ensure that only those who experience true hardship are excused from jury service.
- 3.** Provide jurors flexibility in scheduling their service and guaranteeing potential jurors they will not spend more than one day at the courthouse unless they are selected to serve on a jury panel.
- 4.** Protect employees from any adverse action in the workplace due to their responding to a juror summons.
- 5.** Establish a lengthy trial fund, financed by a nominal court-filing fee, to pay jurors who serve on long civil trials.

\*State Legislative information provided by the American Tort Reform Association. For more information please visit [www.atra.org](http://www.atra.org).

# Legal Terms \*

\* The American Tort Reform Association provided portions of the above definitions. For more information, visit: [www.atra.org](http://www.atra.org).

**Appeal Bond:** a cost bond required by a rule of procedure to be given by an appellant in order to cover the costs of an appeal

**Class Action:** an action in which a representative plaintiff sues or a representative defendant is sued on behalf of a class of plaintiffs or defendants who have the same interests in the litigation as their representative and whose rights or liabilities can be more efficiently determined as a group than in a series of individual suits.

**Collateral Source Rule:** evidentiary rule that provides that evidence may not be admitted at trial to show that plaintiffs' losses have been compensated from other sources, such as plaintiffs' insurance or worker's compensation.

**Contingency Fee:** a fee for services of a lawyer paid upon successful completion of the services and usually calculated as a percentage of the gain obtained for the client.

**Fault:** 1. an intentional act forbidden by law or an intentional omission to do something (as to exercise due care) required by law. 2. responsibility for an act or omission that causes damage or injury to another.

**Joint and Several Liability:** a theory of recovery that permits the plaintiff to recover damages from multiple defendants collectively, or from each defendant individually. In a state that follows the rule of joint and several liability, if a plaintiff sues three defendants, two of whom are 95 percent responsible for the plaintiff's injuries, but are also bankrupt, the plaintiff may recover 100 percent of his/her damages from the solvent defendant that is 5 percent responsible for the plaintiff's injuries.

**Negligence:** failure to exercise the degree of care expected of a person of ordinary prudence in like circumstances in protecting others from a foreseeable and unreasonable risk of harm in a particular situation.

**Non-economic Damages:** damages that involve no direct economic loss and have no precise value such as pain and suffering, emotional distress, loss of consortium or companionship, and other intangible injuries.

**Product Liability:** area of the law intended to compensate persons injured by defective products and to deter manufacturers from marketing such products. Product liability is imposed on a manufacturer or seller for a defective and unreasonably dangerous product.

**Punitive Damages:** damages that are awarded not to compensate a plaintiff for actual loss, but to punish a defendant for intentional or malicious misconduct and to deter similar future misconduct.

**Tort:** 1. a wrongful act, other than a breach of contract, that injures another and for which the law imposes civil liability 2. a violation of a duty (as to exercise due care) imposed by law as distinguished from contract for which damages or declaratory relief (as an injunction) may be obtained.

**Tort Reform:** change or alteration of laws imposing civil liability for torts.

# Tips for Effectively Communicating with Lawmakers

**Constituents' issues** are of the utmost concern to politicians. The best way you can affect the outcome of legislation is to directly communicate your views to your lawmakers.

It is important to keep in mind that many times you will not be speaking directly to your elected official, but rather to a staff member. Contact with legislative staff is essential, as staffers have significant input with lawmakers and expertise in specific areas of legislation.

To find bill information, visit [www.thomas.loc.gov](http://www.thomas.loc.gov). To find your elected officials, visit [www.senate.gov](http://www.senate.gov) or [www.house.gov](http://www.house.gov). Below, you will find more tips for effectively communicating with your lawmakers.

## Writing Powerful Letters

Personally written letters are an easy way to present your view, without interruption, on specific issues, while encouraging lawmakers to vote in support of your position. Always let your lawmakers know how a specific issue will affect you personally, and make sure it is understood that you live and vote in his/her district or state. Did you vote for this official? Did you contribute to the campaign? If so, let them know! When writing to lawmakers, also consider the following:

### 1. Addressing Your Lawmakers

Address your letters to "The Honorable \_\_\_\_\_," and begin the letter "Dear Senator" or "Dear Representative."

### 2. Use Your Company Letterhead

If you own or operate a business, using your company letterhead will enhance your message and ensure your concerns are taken seriously.

### 3. Be Brief, Specific and Always Courteous!

Letters should not exceed one page, and the purpose of the letter should be clearly stated in the opening paragraph. Address only one issue in each letter, and choose the three strongest points to support your argument and develop them clearly. If your letter pertains to specific legislation, identify it accordingly, e.g., House bill: H.R. \_\_\_\_\_, Senate bill, S. \_\_\_\_\_.

### 4. Always Ask for a Reply

Ask your representatives for a response to your letter. Send copies of any responses you receive to HAI Legislative Affairs.

## Faxing Letters to Lawmakers

HAI recommends faxing your written concerns to elected officials. Faxing allows full-length letters to be sent to representatives in a matter of minutes for the cost of a telephone call. Prepare your correspondence as you would under the above guidelines. Be sure your fax number is clearly visible so that your representative may respond to you via fax. Share any responses with HAI Legislative Affairs.

## Email

More and more elected officials are using email as a way to communicate with their constituents. Sending effective email to lawmakers is much the same as writing a letter. However, email allows the sender to be less formal and a bit briefer. Email also avoids postal service delays that congressional offices have endured because of security concerns.

## Effective Telephone Calls

Sometimes as bills move through the legislative process, there simply may not be enough time to write your representatives prior to a key vote. When you need to get in touch with your lawmakers immediately, your telephone calls become the most effective way to communicate your concerns. Phone calls also show that you care enough to spend a little money, and offer unparalleled feedback. When placing calls to legislators, remember the following:

### 1. Identify Yourself as a Constituent

Constituents' telephone calls carry the most weight. Calls to representatives outside your district or state may be helpful as well, but contact your own legislators first.

### 2. State Your Point Quickly and Clearly

Limit your call to one subject. Be brief but specific. Your call should last only a couple of minutes at most. State the reason you are calling and give a brief description of relevant bills and bill numbers if possible.

### 3. Request Your Legislator's Position in Writing.

Give your name and home address and request that your legislator follow up with a letter. You took the time to call, so have your representative take the time to respond.

## Personal Meetings

Personal meetings are by far the most effective way to communicate your views to your elected officials. Below are helpful tips for successful meetings with your legislators.

### 1. Schedule an Appointment

To help increase the chance that you will be given time to speak directly with your legislator, request a meeting in writing with specific times and dates.

### 2. Explain How Proposed Legislation Will Affect You

Convey what issue or bill you would like to discuss. Decide on talking points to express your most important ideas. Use specific examples to show how tort reform will benefit you, a voting constituent.

### 3. Follow Up Your Visit With a Thank You Note

Regardless of how the meeting goes, send a letter thanking your legislator for meeting with you and reiterate the points you discussed. This gesture will go a long way, and possibly open the door to future meetings.

### 4. If Your Legislator is Unavailable, Meet With His/Her Staff

If your representative cannot meet with you, don't hesitate to schedule an appointment with the staff member that handles tort reform. Staffers will bring your concerns to the lawmaker's attention, often having great influence and special expertise. Helpful information concerning Congressional staff titles and functions may be found on Page 11 of this packet.

### 5. Bring Ample Materials to Share with Your Lawmakers and His/Her Staff

Supporting documentation will bolster your point and serve as valuable reference materials after your meeting has concluded. If you offer to provide additional materials during the meeting, be certain to send them promptly.

# Sample Letter

Your Address)  
(Your Phone)  
(Your Email)

(Date)

The Honorable (Member of Congress)  
(Address)

Dear (Member of Congress):

Every two seconds a lawsuit is filed in America. Across this increasingly litigious land, frivolous lawsuits and astronomical verdicts are bombarding businesses from automobile manufacturers to fast-food restaurants. This litigation explosion costs American consumers and businesses more than \$150 billion a year.

The current U.S. tort system, by far the most expensive in the world, has forced the entire business community to devote substantial resources to defending against frivolous litigation and excessive damages. The resulting cost of increased liability insurance premiums are being passed off to consumers in the form of a "tort tax" added to the price of every good sold or service provided. No industry is immune. As a member of the rotorcraft industry, I can attest that overall industry-wide insurance rates have risen 40-60%. Legal liability reform can provide relief from the high cost of insurance premiums for small businesses.

President Bush signed Public Law 109-2 last year giving federal courts jurisdiction over class action suits when the total amount in dispute exceeds \$5 million, and when the defendant and a large portion of the plaintiffs live in different states. This law helps prevent "venue shopping," in which attorneys file their lawsuits in jurisdictions where plaintiffs often win large settlements. This is a good first step, but more help is needed.

The U.S. House of Representatives has passed legislation to address the number of meritless lawsuits and to effect changes in civil procedures adopted by the courts, yet the U.S. Senate has never considered the legislation. Comprehensive federal legislation preempting state tort law and eliminating "venue shopping" and unreasonable jury awards is imperative. As a voting constituent, I strongly urge you to introduce and support legislation that would protect America's businesses from excessive verdicts, the resulting increased insurance premiums, and attorneys seeking their own financial enrichment.

Thank you for your attention to this matter and consideration of my concerns. I look forward to your response.

Sincerely,

(Your Signature)  
(Your name)

# The Legislative Process

## How a Bill Becomes Law

### Introduction

Anyone may draft a bill. However, only members of Congress can introduce legislation. By doing so, they become the sponsor(s). There are four basic types of legislation: bills, joint resolutions, concurrent resolutions, and simple resolutions. The official legislative process begins when a bill or resolution is numbered, referred to a committee and printed by the Government Printing Office. H.R. signifies a House bill and S. a Senate bill.

### Step 1. Referral to Committee

With few exceptions, bills are referred to standing committees in the House or Senate according to carefully delineated rules of procedure.

### Step 2. Committee Action

When a bill reaches a committee, it is placed on the committee's calendar. A bill can be referred to a subcommittee or considered by the committee as a whole. It is at this point that a bill is examined carefully and its chances for passage are determined. If the committee does not act on a bill, it is the equivalent of killing it.

### Step 3. Subcommittee Review

Often, bills are referred to a subcommittee for study and hearings. Hearings provide the opportunity to put on the record the views of the executive branch, experts, other public officials, supporters and opponents of the legislation. Testimony can be given in person or submitted as a written statement.

### Step 4. Mark Up

When the hearings are completed, the subcommittee may meet to "mark up" the bill, that is, make changes and amendments prior to recommending the bill to the full committee. If a subcommittee votes not to report legislation to the full committee, the bill dies.

### Step 5. Committee Action to Report A Bill

After receiving a subcommittee's report on a bill, the full committee can conduct further study and hearings, or it can vote on the subcommittee's recommendations and any proposed amendments. The full committee then votes on its recommendation to the House or Senate. This procedure is called "ordering a bill reported."

### Step 6. Publication of a Written Report

After a committee votes to have a bill reported, the committee chairman instructs staff to prepare a written report on the bill. This report describes the intent and scope of the legislation, impact on existing laws and programs, position of the executive branch, and views of dissenting members of the committee.

### Step 7. Scheduling Floor Action

After a bill is reported back to the chamber where it originated, it is placed in chronological order on the calendar. In the House there are several different legislative calendars, and the Speaker and majority leader largely determine if, when, and in what order, bills come up. In the Senate there is only one legislative calendar.

### Step 8. Debate

When a bill reaches the floor of the House or Senate, there are rules or procedures governing the debate on legislation. These rules determine the conditions and amount of time allocated for general debate.

### Step 9. Voting

After the debate and the approval of any amendments, the bill is passed or defeated by the members voting.

### Step 10. Referral to Other Chamber

When the House or the Senate passes a bill, it is referred to the other chamber where it usually follows the same route through committee and floor action. This chamber may approve the bill as received, reject it, ignore it, or change it.

### Step 11. Conference Committee Action

If only minor changes are made to a bill by the other chamber, it is common for the legislation to go back to the first chamber for concurrence. However, when the actions of the other chamber significantly alter the bill, a conference committee is formed to reconcile the differences between the House and Senate versions. If the conferees are unable to reach agreement, the legislation dies. If agreement is reached, a conference report is prepared describing the committee members recommendations for changes. Both the House and the Senate must approve the conference report.

### Step 12. Final Actions

After both the House and Senate have approved a bill in identical form, it is sent to the President. If the President approves the legislation, he signs it and it becomes law. Or, the President can take no action for ten days, while Congress is in session, and it automatically becomes law. If the President opposes the bill, he can veto it or, if he takes no action after the Congress has adjourned its second session, it is a "pocket veto" and the legislation dies.

### Step 13. Overriding a Veto

If the President vetoes a bill, Congress may attempt to "override the veto." This requires a two-thirds roll call vote of the members who are present in sufficient numbers for a quorum.

# Congressional Staff Roles

Each member of Congress has staff to assist him/her during a term in office. To be most effective in communicating with Congress, it is helpful to know the titles and principal functions of key staff.

## Commonly Used Titles

### Administrative Assistant or Chief of Staff

The Administrative Assistant (AA) reports directly to the member of Congress. He/she usually has overall responsibility for evaluating the political outcome of various legislative proposals and constituent requests. The AA is usually the person in charge of overall office operations, including the assignment of work and the supervision of key staff.

### Legislative Director, Senior Legislative Assistant, or Legislative Coordinator

The Legislative Director is usually the staff person who monitors the legislative schedule and makes recommendations regarding the pros and cons of particular issues. In some congressional offices there are several Legislative Assistants and responsibilities are assigned to staff with particular expertise in specific areas. For example, depending on the responsibilities and interests of the member, an office may include a different Legislative Assistant for health issues, environmental matters, taxes, etc.

### Press Secretary or Communications Director

The Press Secretary's responsibility is to build and maintain open and effective lines of communication between the member, his/her constituency, and the general public.

The Press Secretary is expected to know the benefits, demands, and special requirements of both print and electronic media, and how to most effectively promote the member's views or position on specific issues.

### Appointment Secretary, Personal Secretary, or Scheduler

The Appointment Secretary is usually responsible for allocating a member's time among the many demands that arise from congressional responsibilities, staff requirements, and constituent requests. The Appointment Secretary may also be responsible for making necessary travel arrangements, arranging speaking dates, visits to the district, etc.

### Caseworker

The Caseworker is the staff member usually assigned to help with constituent requests by preparing replies for the member's signature. The Caseworker's responsibilities may also include helping resolve problems constituents present in relation to federal agencies, e.g., Social Security and Medicare issues, veteran's benefits, passports, etc. There are several Caseworkers in a congressional office.

### Other Staff Titles

Other titles used in a congressional office may include: **Executive Assistant, Legislative Correspondent, Executive Secretary, Office Manager, and Receptionist.**

# Tips for Effective Grassroots Activism

## Recruiting and Organizing Volunteers

### Begin Your Own Grassroots Network

Although HAI truly appreciates every individual willing to lobby their Representatives and Senators, imagine how much more could be accomplished if you recruit a dozen other volunteers to help out!

No one is better qualified to recruit and organize the civil helicopter industry into an organized team of political volunteers than HAI Members. Enlist your family, friends, co-workers, and fellow operators. Remember, all have a vested interest in the promotion of the rotorcraft industry.

Identify those interested in legislative action, and establish a "legislative committee." The committee can inform volunteers of tort reform legislation and encourage them to take action. The committee can also prepare and distribute legislative handouts and flyers.

Keep the names, addresses, telephone numbers, and email addresses of interested individuals and businesses readily available so you can inform them of pending legislation and upcoming action. You should also note the individual resources, experiences, and interest of each volunteer. For example, one volunteer might own a business with multi-phone line capacity, which could be used for phone banking. Another volunteer may have previous campaign experience. A quick and easy way to identify and record this information is to have every volunteer complete a volunteer information form.

The information collected from the volunteer information form will be even easier to manage if it is entered into a computer database. A database will allow you to sort your list in a number of different ways, by zip code, telephone number, interests, city, etc. You could also task a volunteer with maintaining the database. You never know what a volunteer is willing to do or contribute unless you ask!

Finally, use HAI's resources. Use your access to our materials to assist you in your efforts. Feel free to contact HAI Legislative Affairs at 703-683-4646 whenever you need assistance.

## Attend Town Hall Meetings

During congressional recesses, most lawmakers return to their districts and host town hall meetings. These meetings present excellent opportunities for you-HAI members and constituents-to meet face-to-face with your lawmakers and express your position on tort reform. Ask your lawmakers to include you on their list of town hall meeting announcements, and keep your eye on their websites for similar postings. Whenever you are notified of one of these meetings, be sure to inform your fellow HAI members.

## Register to Vote/Organize a Voter Registration Event

Perhaps the simplest, yet most important, step citizens can take is registering to vote. As a voter, you have tremendous ability to influence the outcome of legislation. Your vote is your voice! Make sure your family, friends, and co-workers are registered to vote. Go into the helicopter community in your area and actively help register voters. Any gathering of industry members is a great place to organize a voter registration event.

## **Communicating with the Media**

Letters to local newspapers, radio, and television stations may help influence the media's presentation of tort reform and the helicopter industry, as well as inform the public of the facts that support our position. These letters do not always have to be negative. When media outlets run stories that portray the helicopter industry in a positive manner, thank them and encourage them to run similar stories in the future.

### **Letters to the Editor**

Letters to the editor provide citizens with the opportunity to comment on articles and editorials appearing in their local newspapers. The "Letters to the Editor" section of a newspaper is extremely popular and widely read by community leaders and lawmakers to gauge public sentiment about current issues. Here are some helpful guidelines for crafting your letter to the editor:

#### **1. Type or Write Clearly**

Include your name, address, and telephone number. Newspapers often call to verify authorship and generally do not print anonymous letters.

#### **2. Address Your Letters to the "Letters Editors" or "Dear Editor"**

#### **3. Be Brief and Specific**

Letters should rarely exceed one page. State the purpose of your letter in the opening paragraph and stick to that topic. Always adhere to the paper's guidelines, which should be clearly stated on the editorial page.

#### **4. Accurate Documentation**

Mentioning documented studies and statistics in your letter will enhance its effect, but don't overdo it. Your underlying message can become lost in a sea of figures. Don't make statements you can't back up with hard facts or figures. Avoid personal attacks and insults.

#### **5. Write About Current Issues, Not Old Topics**

Stick to current debates and issues. Respond promptly to tort reform articles and editorials. Write in support of pending tort reform legislation.

## **Broadcast Media**

Although letters to the broadcast media will not be seen or read by the general public, they can help influence the programming of a particular station. Local radio and television stations compete for listeners and viewers, which means their programming must cater to their audience. Remember, your impact will be multiplied when you encourage your family, friends, and fellow helicopter operators to contact the station as well. Here are some helpful guidelines to follow when crafting letters to the broadcast media:

#### **1 Locate a station's address in your local Yellow Pages.**

Stations will be listed under "Radio Stations" or "Television Stations."

#### **2. Type or Write Clearly**

Include your name, address, telephone number and e-mail address.

#### **3. Address your letter to the "Station Manager" or "General Manager"**

When possible, call the station to obtain the manager's name and official title.

#### **4. Comment on Tort Reform stories**

If your letter refers to a particular story, always identify it by the date and time it aired, where it aired, as well as who reported it.

### **Radio and Television Talk Shows**

Calling talk shows in your area is a great way to help get your message across to thousands of listeners at no cost. In addition to calling in to regularly scheduled talk radio shows, do some additional research and call your local radio and television stations and ask if they have any open forums-talk shows where callers can discuss any subject with the host. If so, try to get on the air to make short, concise, positive statements about tort reform. If there is currently a tort reform bill making its way through the legislative process, the host may keep the topic on the air for several minutes. If not, you can, at least, take comfort in knowing that the station's listeners heard your brief statement in support of your position.

You can also call talk shows and ask the producer if there are any upcoming shows that will discuss tort reform. If one is scheduled, try to get a representative of the helicopter industry booked to appear on the show. Let others know when these shows are scheduled so they may participate!

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