

Legal system abuse

Consumers, businesses, and insurers are increasingly fraught by the impact of legal system abuse and the resulting skyrocketing verdicts. Legal system abuse, often referred to as social inflation, applies to a variety of tactics the trial bar uses to initiate more lawsuits, drive up litigation expense costs and settlements for defendants, and secure higher verdicts.



\$3,621+

Average household pays due to abusive litigation that raises costs of products and services¹



300%

Rise in Nuclear Verdicts® in 2019 from annual average 2001-2010²



375

Typical days to close claims with attorneys, compared to 168 days without attorneys³

Drivers of legal system abuse

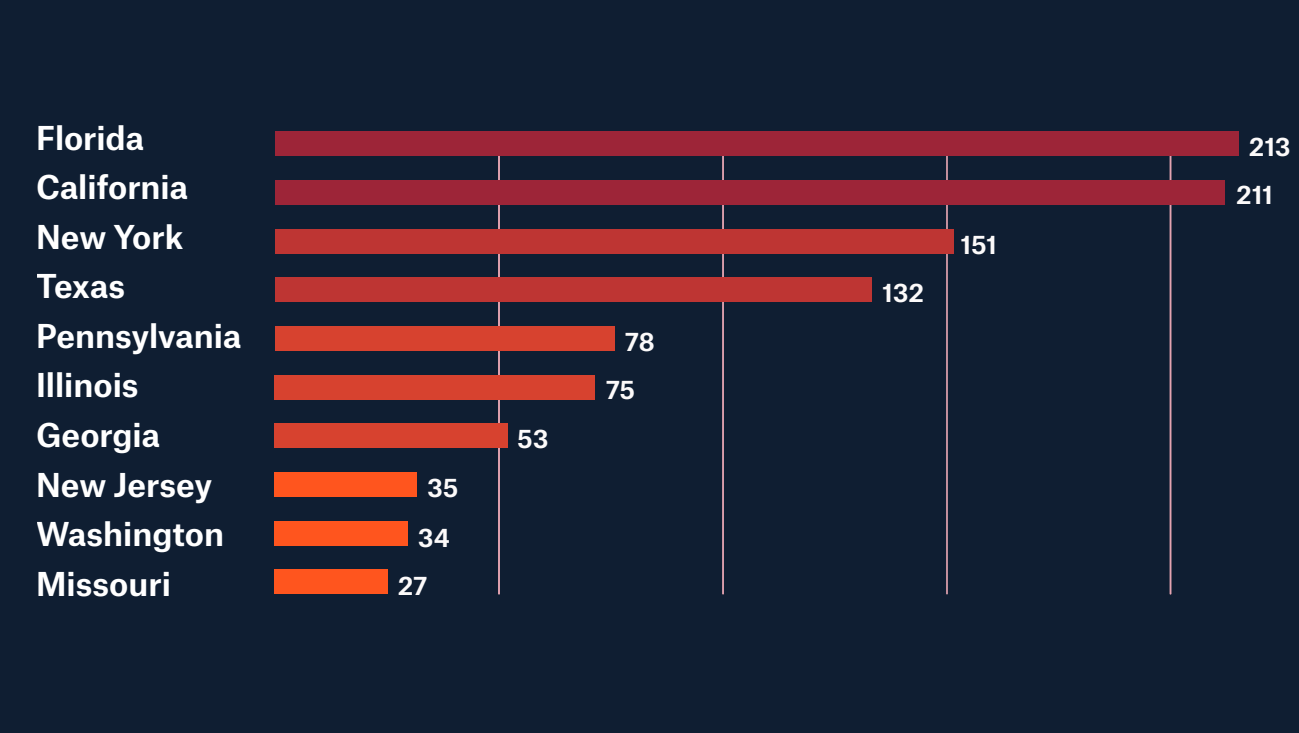
Several social, political, legal, and economic drivers contribute to making legal system abuse one of the major emerging risks the insurance industry faces today.

-  Desensitization to large verdicts
-  Needed repairs to the civil justice system
-  Diminished value of money
-  Class action lawsuits
-  Litigation funding
-  Social media and legal advertising
-  Public distrust of corporate defendants/attorneys
-  Generational shift in jury pools
-  Increase in medical expenses
-  Jury anchoring
-  Venue shopping

Nuclear Verdicts

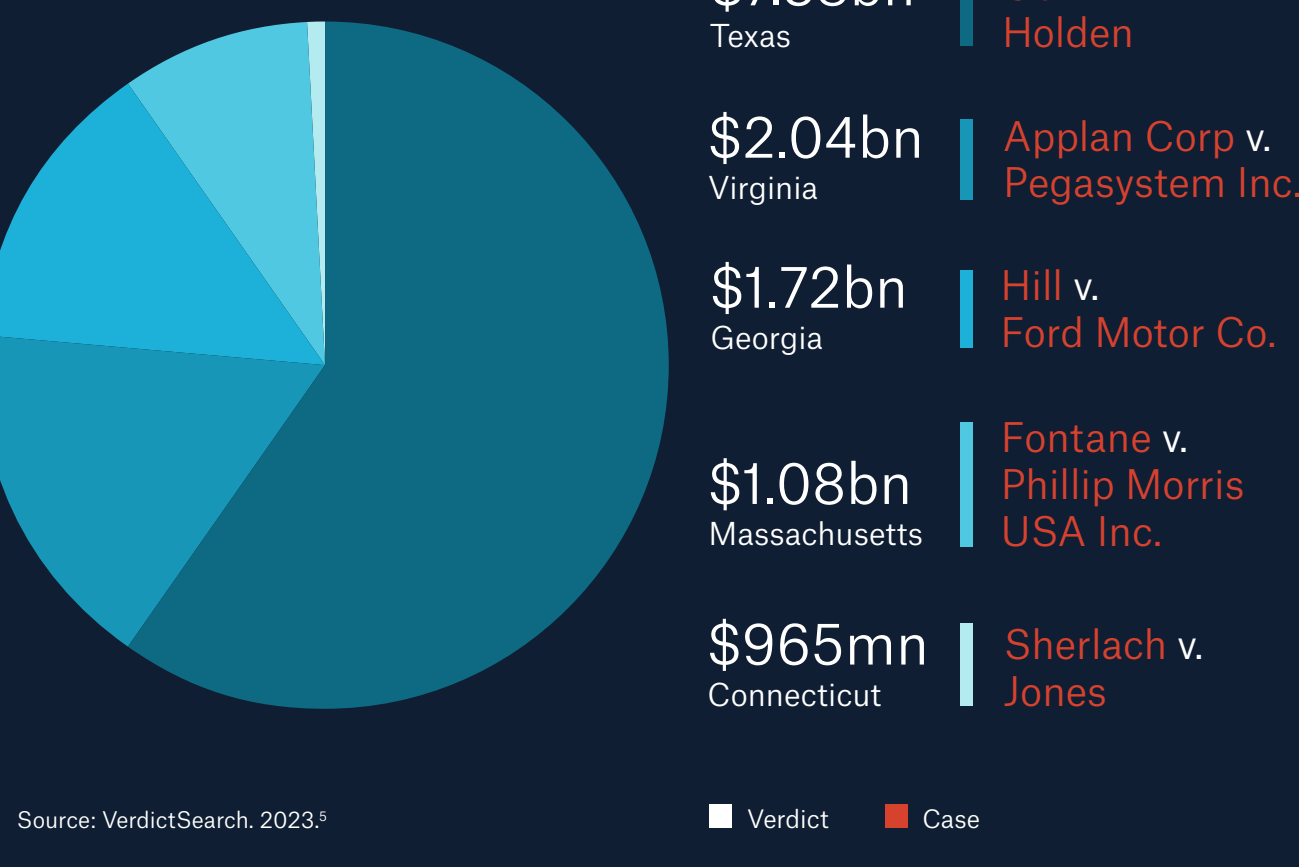
Nuclear Verdicts are defined as verdicts over \$10mn. A new term emerging – “thermonuclear” verdicts – are far exceeding the \$10mn threshold and can only be explained by emotional or punitive juror motives.

Top 10 states by cumulative Nuclear Verdicts (>\$10mn) 2010-2019



Source: Institute for Legal Reform, 2022.⁴

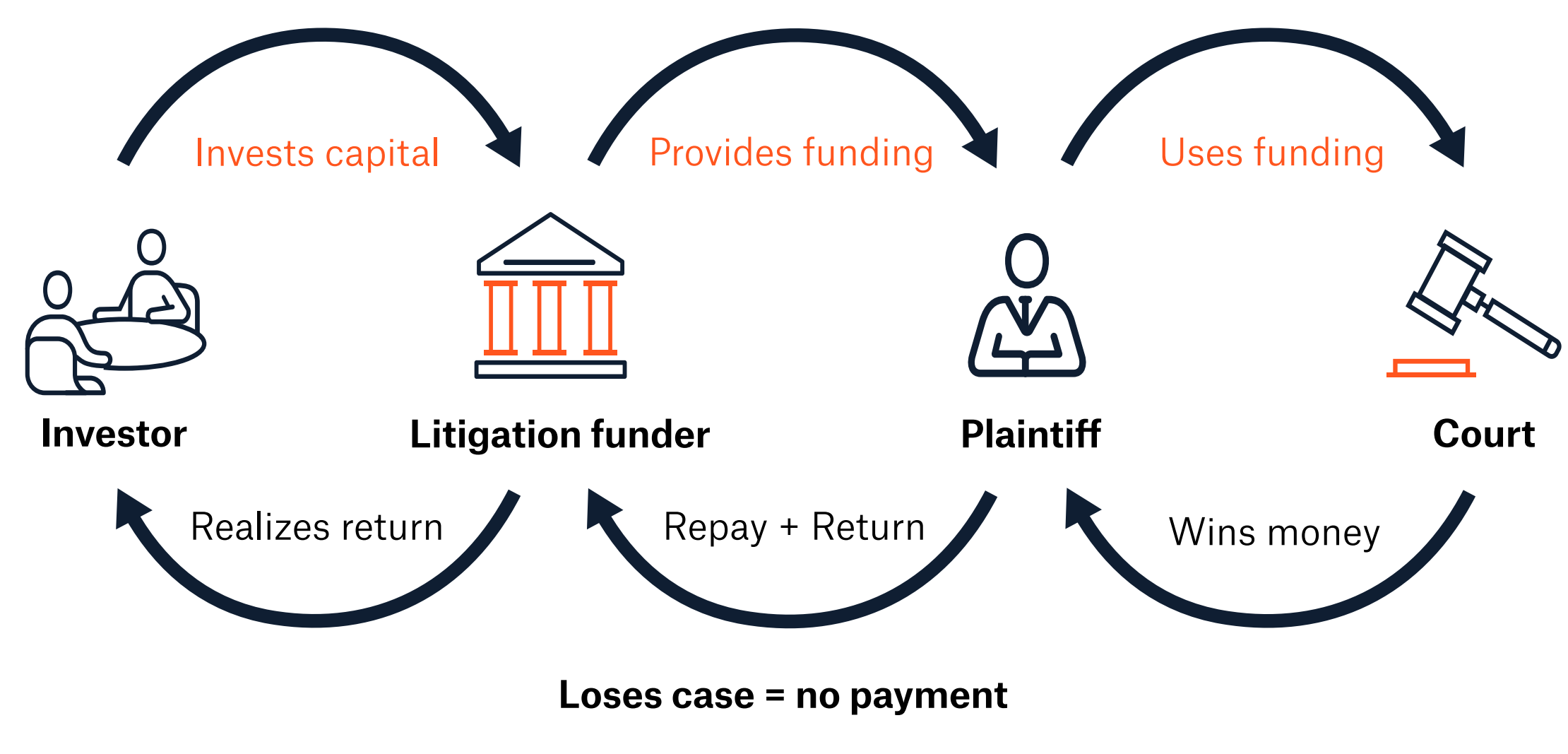
Largest jury verdicts of 2022



Source: VerdictSearch, 2023.⁵

Litigation funding

Third-party litigation funding (TPLF) is surging, with more than \$11bn of capital invested in the United States.⁶ This driver of legal system abuse is an arrangement where a funder that is not a party to a lawsuit provides funding to a plaintiff or law firm in exchange for an interest in the potential award in a lawsuit. Plaintiffs do not have to repay the funding if their lawsuit is not successful.



Strategies to mitigate legal system abuse

Munich Re US is taking a proactive approach to understand and address the issue of legal system abuse. The following are strategies clients can implement to help mitigate this risk:

- Require discovery of TPLF arrangements
- Enhance defense case management to offer a more effective counter to the plaintiffs' bar
- Ensure risk management practices are optimized
- Review insurance contracts to certify appropriate coverage
- Proactively manage claims, especially in long-tail business
- Prepare for renewals to demonstrate exposures, risk management, and propensity to losses
- Monitor medical and wage costs
- Prepare defendants adequately
- Evaluate higher deductibles, higher retentions, or reduced insurance policy limits
- Use data, analytics, and technology to improve exposure monitoring and analysis to identify trends early
- Analyze developments from a cross-functional perspective, pulling expertise from claims, legal, underwriting, and data analytics departments to understand and respond quickly

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Learn more about our property and casualty reinsurance solutions:
munichre.com/us-non-life/en/solutions/reinsurance/property-and-casualty-reinsurance.html

Sources
¹The US Tort System Costs \$443 Billion, US Chamber of Commerce, The Institute for Legal Reform, January 5, 2023. <https://www.instituteforlegalreform.com>
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³Insurance Research Council. (2020). Public Attitudes on Litigation Trends and the Role of Attorneys in Auto Insurance Claims. Retrieved: January 26, 2023. <https://www.insurance-research.org/research-publications/countrywide-patterns-auto-injury-claims>
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⁶American Property Casualty Insurance Association. (2023). Legal System Abuse Hurts Families and Affects Jobs. Retrieved: January 23, 2023. <https://www.apci.org/legal-system-abuse/>