



# Setting THE record straight

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## Pennsylvania must pick up the pace on lawsuit abuse reform

While many competitor states have made great strides over the years to improve their legal climates, Pennsylvania prefers to limp along the road to reform, content with an unbalanced legal system that hurts the Commonwealth competitively.

### Studies confirm: Pennsylvania's liability climate is among worst in the nation

The fairness and predictability of a state's legal system is one of the many factors that influence businesses' hiring, expansion and location decisions. It's not good news then that this year, Pennsylvania slipped four spots from its already lackluster 32<sup>nd</sup> ranking to 36<sup>th</sup> in the U.S. Chamber Institute for Legal Reform's "Lawsuit Climate: Ranking the States" study.

The study highlights the best and worst liability climates in the country, and is conducted by Harris Interactive, a nationally recognized nonpartisan market research firm. The survey of in-house counsel and senior litigators at America's largest employers is the pre-eminent standard by which companies, policymakers and the media judge the legal fairness of a state.

Pennsylvania also scored a dismal 45<sup>th</sup> among the rest of the nation for its relatively high monetary tort losses and/or high litigation risks, according to the Pacific Research Institute's U.S. Tort Liability Index: 2008 Report.

And one cannot overlook the Philadelphia court system's dubious distinction of having characteristics of a "Judicial Hellhole" — a place where judges systematically apply laws and court procedures in an inequitable manner, generally against defendants in a civil lawsuit — according to the American Tort Reform Association.

Different studies; different criteria; the same harsh assessment of the status of Pennsylvania's legal climate.

### If legal reform works, why stop?

It deserves mentioning that Pennsylvania did implement some changes in recent years in an effort to begin resolving a medical malpractice system that had reached the crisis point. According to new court statistics, medical malpractice lawsuit *filings* did decline slightly last year in Pennsylvania due largely to venue shopping reforms enacted in 2003. This bit of good news should have been a motivating factor for greater broad-based legal reform in medical liability and all civil litigation cases. Unfortunately, the administration and some elected officials claimed victory and dismissed the need for—and potential positive impact of—commonsense improvements such as joint and several liability reform; protection for innocent sellers; statute of repose in product liability actions; and reasonable limits on non-economic damages. This is disappointing.

A state's legal climate has a direct bearing on economic competitiveness factors such as business and job growth and new product research, development and introduction into the market, not to mention the price of goods and services to consumers. Despite the best efforts of state lawmakers who understand this to be true, making meaningful headway on lawsuit abuse reform has been a frustrating process at best (a glaring example of which is Gov. Ed Rendell's veto of a joint and several liability reform bill that enjoyed bipartisan support in the General Assembly in not one, but two legislative sessions).

When it comes to meaningful lawsuit abuse reform, Pennsylvania must take big strides, not small steps, in order to reach the destination of a business climate that supports economic growth and job creation—not one that unnecessarily jeopardizes employers in the Commonwealth.

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*The Pennsylvania Chamber of Business and Industry is the state's largest broad-based business association, with its membership representing nearly 50 percent of the private workforce. More information is available on the Chamber's website at [www.pachamber.org](http://www.pachamber.org)*

