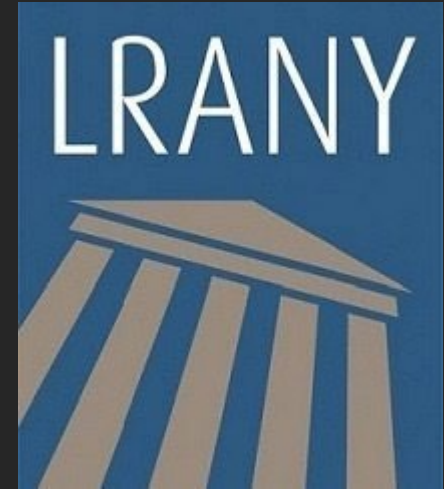


Legal Reform in New York

An Advocacy Perspective

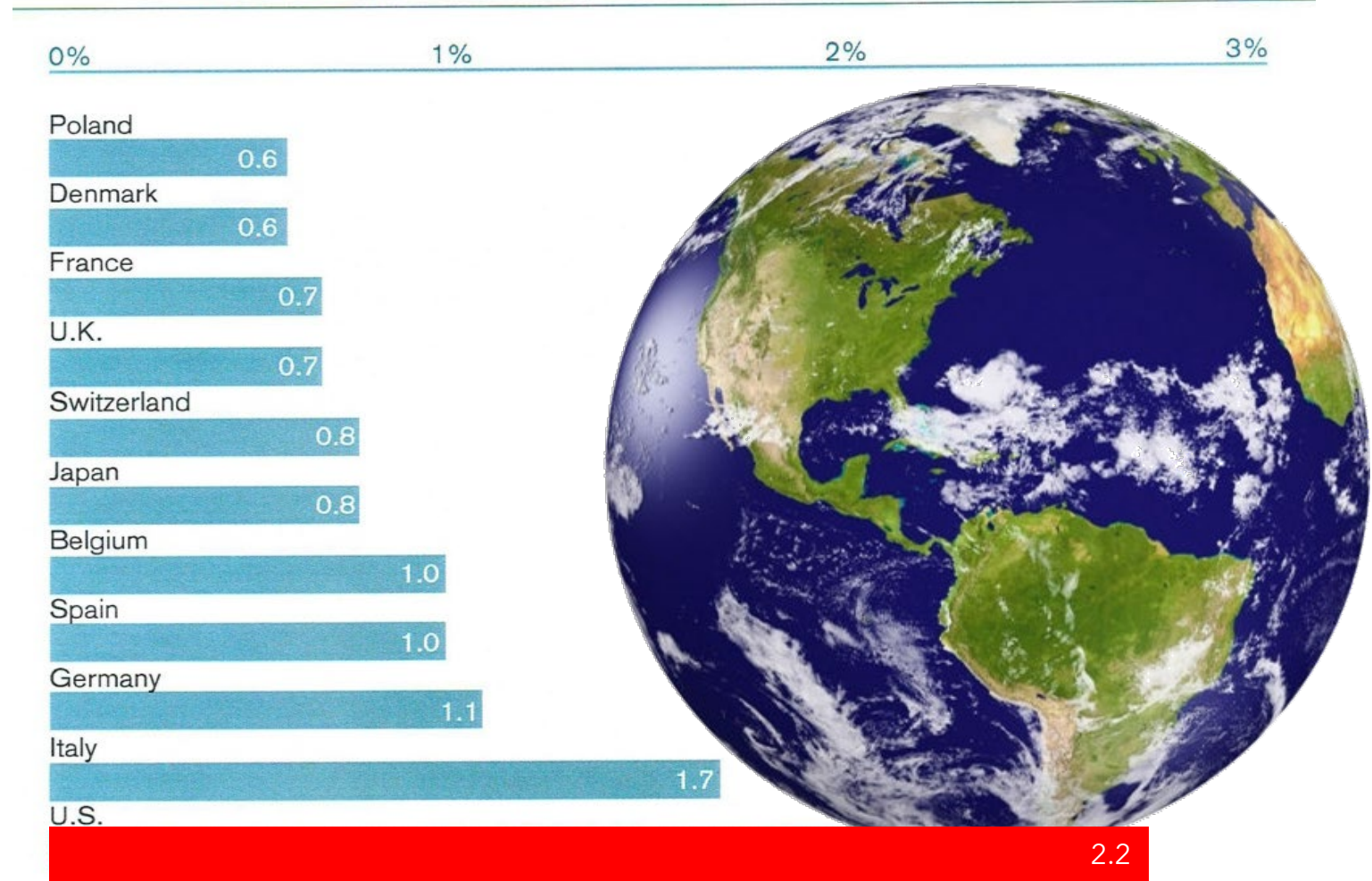


Executive Director, Tom Stebbins
New York Self Insurance Association
Annual Meeting, NYC
January 2024

WE'RE THE **MOST LITIGIOUS** COUNTRY


IN THE WORLD

Tort Costs as a Percentage of GDP, 11 Industrialized Countries



EXCLUSIVE REPORT

\$UE YORK CITY



It's the safest bet in town — sue New York and get paid. With more than \$700 million doled out annually to plaintiffs, lawsuits have become such a sure moneymaker that people who have a case against NYC are fronted cash by finance firms that then take a percentage of the winnings.

SEE PAGES 4-5

City spent more than \$1B on lawsuit payouts

By Kathianne Boniello, Dean Balsamini, Sara Dorn and Susan Edelman

“In 2022, 12,188 claims and lawsuits against New York City were resolved for \$1.5 billion, the highest amount in the City’s history.

*For the last 10 fiscal years, the City has paid on average approximately **\$1 billion per fiscal year** to settle all claim types.”*

NYC spends more on lawsuits than parks, libraries, and aging - COMBINED.
More than the next 19 largest US cities - COMBINED.

Businesses

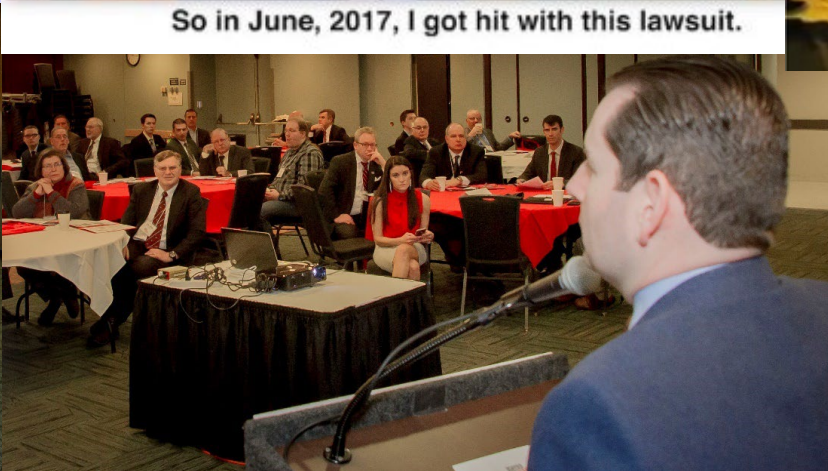


Associations



Individuals





2020

The New York Civil Justice Institute

Author by: Katherine Hobday



Data Privacy in the Age of COVID-19

NEW YORK'S NUISANCE NUCLEAR VERDICTS

Ethics and Experts: Costs of the For-Profit Expert Witness Industry

Advocacy



Research



Amicus



Assembly Rules Committee



Senate Rules Committee



Senate Finance Committee



Assembly Ways and Means Committee



Senate Judiciary Committee



Assembly Judiciary Committee



Senate Codes Committee



Assembly Codes Committee





Issue Examples

Wrongful Death



Successfully led a veto campaign.

ADA Abuse



Fighting for a 60-day cure period before facing litigation.

Lawsuit Lending



Passed a bill unanimously through the New York Senate.



Issue Examples

Labor Law 240



2500+ coalition pushing a comparative negligence standard.

7 ON YOUR SIDE INVESTIGATION

7 on Your Side Investigates: Fake construction falls in NY contributing to rise in rent, home costs

By [Kristin Thorne](#) Tuesday, November 7, 2023



PUBLIC SAFETY

'Suspicious' Scaffold Law injury claims alarm industry, advocates say

BY LORI CHUNG | NEW YORK CITY
PUBLISHED 7:47 PM ET JAN. 27, 2023



Advocates say the Scaffold Law continues to keep New York construction workers safe by requiring contractors to provide workers with proper safety equipment, but many in the industry say more companies are being burdened by what they believe are nuisance claims.

In the 18 years that Michael DiFonzo has been running his construction business, it's only in the last three years or so that he's noticed a drastic rise in injury claims by workers who say they have fallen.

He said it strikes him as fishy.

"The falls are usually very low in height with no witnesses [and] workers usually new," said DiFonzo, vice president of the New York City Special Riggers Association.

Wrongful Death - Lobbying



AMERICAN COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, DISTRICT 2
 MEDICAL SOCIETY OF THE STATE OF NEW YORK
 NEW YORK CHAPTER AMERICAN COLLEGE OF PHYSICIANS SERVICES
 NEW YORK CHAPTER AMERICAN COLLEGE OF SURGEONS
 NEW YORK STATE ACADEMY OF FAMILY PHYSICIANS
 NYS AMERICAN ACADEMY OF PEDIATRICS, CHAPTERS 1, 2 & 3
 NEW YORK STATE NEUROLOGICAL SOCIETY
 NEW YORK STATE NEUROSURGICAL SOCIETY
 NEW YORK STATE OPHTHALMOLOGICAL SOCIETY
 NEW YORK STATE PSYCHIATRIC ASSOCIATION
 NEW YORK STATE SOCIETY OF ANESTHESIOLOGISTS
 NEW YORK STATE SOCIETY OF ORTHOPEDIC SURGEONS
 NEW YORK STATE SOCIETY OF OTOLARYNGOLOGY-HEAD AND NECK SURGERY
 NEW YORK STATE SOCIETY OF PLASTIC SURGEONS

Dear Members of the New York State Legislature:

According to the Permanent Joint Rules of the Senate and Assembly, fiscal impact notes are required for all proposed legislation that would substantially affect the expenses of any county, city, town, village, school district or other political subdivisions. Unfortunately, the recently introduced S.6636/A.6698, which dramatically expands liability for local governments under New York's wrongful death statute, does not include the required fiscal impact note. Due to the enormous increase in costs on both the public and private sectors, Governor Kathy Hochul vetoed similar legislation earlier this year. This new bill does not address the reasons for her veto. Our organizations supported her veto, as did the State Division of Budget, which wrote that in addition to increasing liability costs for municipalities, state agencies and public authorities including the Department of Corrections, Division of State Police, Office of Parks & Recreation, Metropolitan Transit Authority, and Thruway Authority, "would similarly face increased litigation costs resulting in higher costs to taxpayers."

In calling on Governor Kathy Hochul's office to veto A.6770/S.74-A, we wrote that the legislation would dramatically increase costs for municipalities of all sizes across New York. Municipalities are among the top targets for lawsuits in New York State. Local governments are often targeted as "deep pockets" despite only being marginally involved with the incident in question. The costs of settlements, judgments, and defense fees, which will dramatically increase under this proposal, inhibit municipalities' ability to provide crucial services to residents.

In addition, the increase in damages recoverable in wrongful death suits is certain to increase liability insurance premiums. This would impact not only municipalities, which must purchase insurance to protect taxpayers from tort costs, but the many businesses and medical facilities that form the lifeblood of our communities and provide critically important jobs to residents.

Like its 2022 predecessor, the recently introduced S.6636/A.6698 contributes to the perception that cities, towns, counties, and villages are ripe for lawsuits of all kinds, despite the reality that the costs of claims against local governments are paid by taxpayers.

According to the Division of Budget, the impact of 2022's A.6770/S74-A on public hospitals alone would have been an increase of \$667.5 million. So as the New York State Legislature begins to consider nearly identical legislation to overhaul the wrongful death statute in the 2023-2024 session, we call on the lawmakers to ensure that the Permanent Joint Rules of the Senate and

Dear Governor Hochul:

As organizations representing all sectors of the New York State economy we write to urge you to veto S.6636/A.6698, which would radically expand the types of damages awarded in wrong death lawsuits. This bill fails to remotely address any of the concerns you raised in your veto message for 2022's S.74-AA.6770. Our opposition to this new version of the bill remains steadfast.

To date, the legislature has provided no analysis of the potential cost of this legislation. In our opposition to the previous bill, we called on lawmakers to follow their own rules and provide an accurate fiscal analysis of the impact on local governments, state agencies, and the private sector. Any claim that paying more people more money has no fiscal implications for state and local governments is misleading and absurd.

Our respective organizations, which together represent tens of thousands of physicians across the State of New York delivering care to millions of patients each year, urge you to oppose A.6698/S.6636, legislation that would exponentially expand damages awardable in "wrongful death" actions.

We note that there have been some technical adjustments to the legislation from the version vetoed earlier this year, including setting forth a more definite list of the various parties who can recover damages from such lawsuits. However, our core concerns remain the same - the staggering increase in liability costs on top of our already unaffordable liability costs that would cause significant damage to our healthcare safety net, driving physicians out of state, and exacerbate the already challenging patient access to care issues we face.

Substantially similar legislation was vetoed by Governor Hochul earlier this year for a number of reasons, including that concerns that the bill "would increase already high insurance burdens on families and small businesses and further strain already-distressed healthcare workers and institutions" which would be "particularly challenging for struggling hospitals in underserved communities". Furthermore, she articulated her concerns that the bill "passed without a serious evaluation of the impact of these massive changes on the economy, small businesses, individuals, and the State's complex health care system." The new bill does not address these fundamental concerns about the impact of this legislation on our healthcare system.

A July 2022 actuarial study of the vetoed legislation concluded that legislation was expected to increase New York's already outrageously high medical liability premiums by nearly 40%. It is important to note that the actuarial study that concluded this enormous premium impact was based almost entirely upon the component of the bill that would expand the types of damages awardable, as the current legislation would do, not the sections that have been revised from the earlier bill.

With awards and payouts already regularly exceeding the insurance levels typically purchased by physicians, simply increasing the types of damages awardable in wrongful death lawsuits in New York would drive up the cost of medical liability insurance for patients and risk.

Wrongful death law is an outlier compared to other states' laws, what they do not mention is that most of these other states also have comprehensive provisions to contain excessive medical liability insurance costs,

155 Washington Avenue, Albany, NY 12210 • TEL (518) 465-8085 • FAX (518) 465-0976 email: albany@mssny.org

Municipalities

New York State Conference of Mayors

New York State Association of Counties

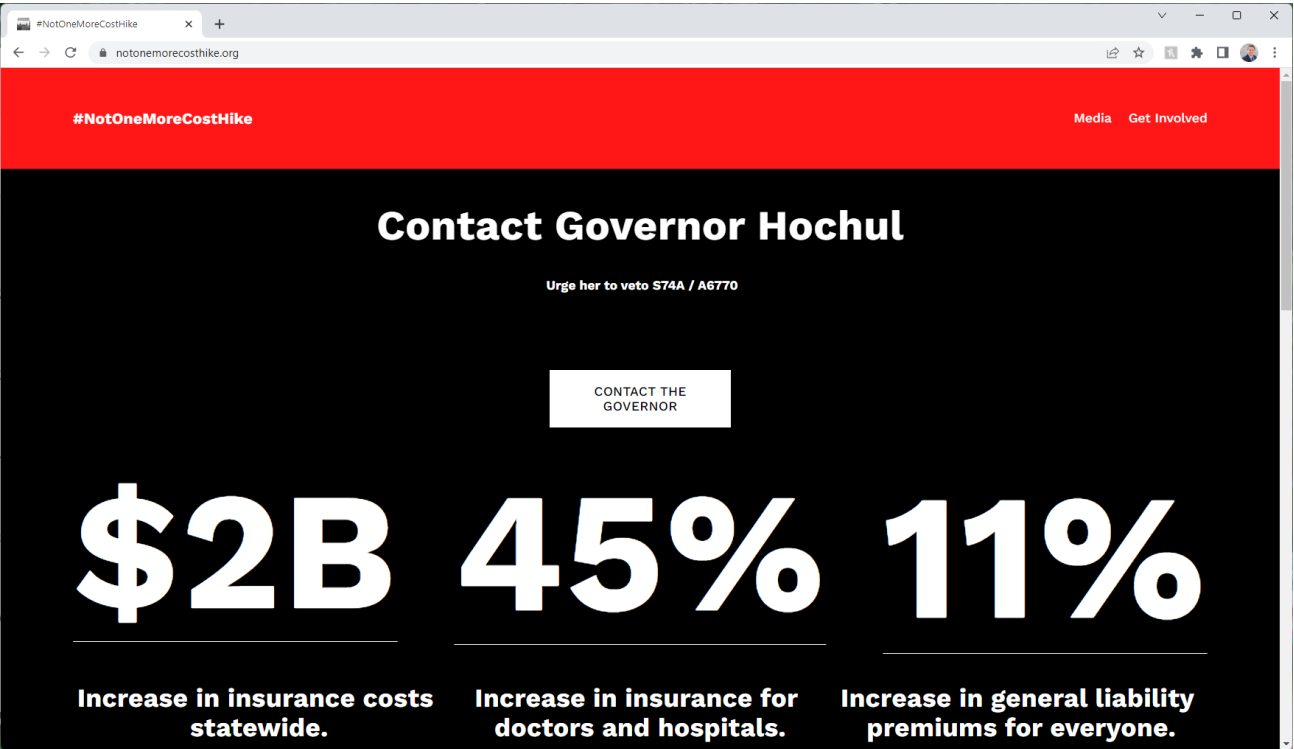
Business

OB/GYNs practicing in New York City and Orange, Rockland, Sullivan, and Westchester Counties could balloon by \$57,804, increasing from \$146,340 to \$204,144. An additional annual cost of magnitude is enough to drive physicians to avoid practicing maternity care and women's

Medical

Wrongful Death – Paid Media

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#NotOneMoreCostHike

Media Get Involved

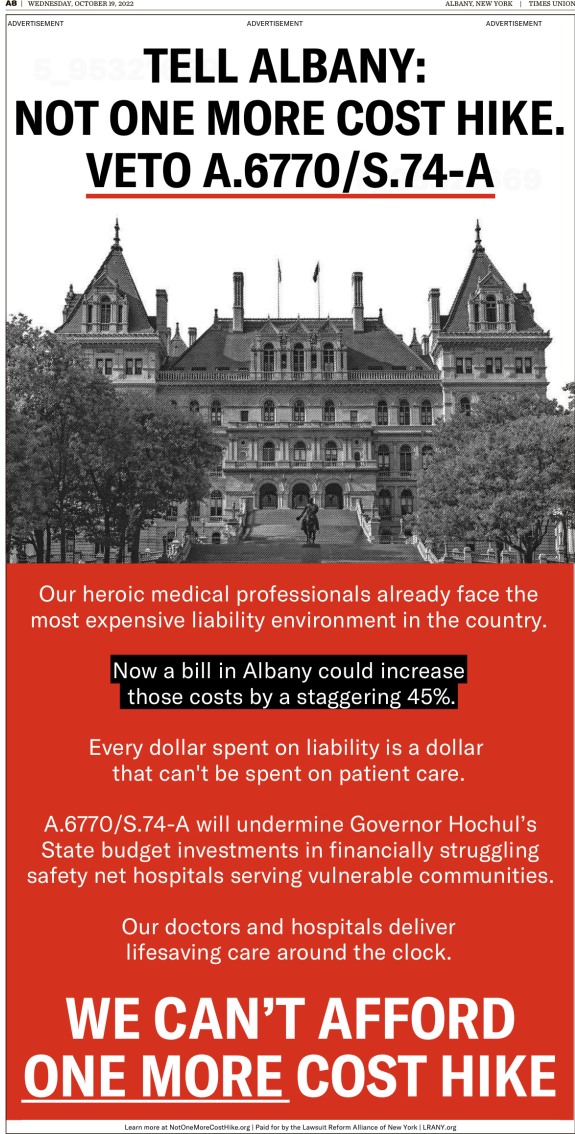
Contact Governor Hochul

Urge her to veto S74A / A6770

CONTACT THE GOVERNOR


\$2B	45%	11%
Increase in insurance costs statewide.	Increase in insurance for doctors and hospitals.	Increase in general liability premiums for everyone.

Paid media campaign made for much easier earned media placements.



WEDNESDAY, OCTOBER 26, 2022 ALBANY, NEW YORK | TIMES UNION

**TELL ALBANY:
NOT ONE MORE COST HIKE.
VETO A.6770/S.74-A**



Our heroic medical professionals already face the most expensive liability environment in the country.

Now a bill in Albany could increase those costs by a staggering 45%.

Every dollar spent on liability is a dollar that can't be spent on patient care.

A.6770/S.74-A will undermine Governor Hochul's State budget investments in financially struggling safety net hospitals serving vulnerable communities.

Our doctors and hospitals deliver lifesaving care around the clock.

**WE CAN'T AFFORD
ONE MORE COST HIKE**

Learn more at NotOneMoreCostHike.org | Paid for by the Lawsuit Reform Alliance of New York | LRANY.org

Wrongful Death – Earned Media



OPINION EDITORIAL



Hochul needs to block NY Legislature's 'everybody sue' lunacy

By Post Editorial Board

October 10, 2022 | 6:59pm | Updated



TELL ALBANY: NOT ONE MORE COST HIKE. VETO A.6770/S.74-A

Our heroic medical professionals already face the most expensive liability environment in the country. A bill in Albany could increase those costs by a staggering 45%. Every dollar spent on liability is a dollar that can't be spent on patient care.

A.6770/S.74-A will undermine Governor Hochul's State budget investments in financially struggling safety net hospitals serving vulnerable communities. Our doctors and hospitals deliver lifesaving care around the clock.

WE CAN'T AFFORD ONE MORE COST HIKE

Contact Governor Hochul

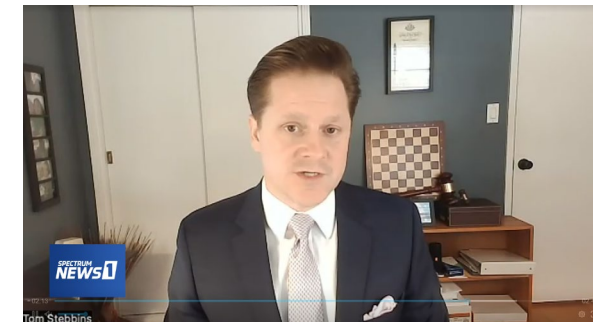
How far to veto A.6770 / S.74-A

\$2B 45% 11%

Increase in insurance costs statewide. Increase in insurance for doctors and hospitals. Increase in general liability premiums for everyone.



Op-Ed: Liability Bill Will Undermine Hochul's Vision For The Future



WHAT'S INSIDE

- ADA TITLE III 4
- THE PROBLEM 4
- THE SERIAL PLAINTIFF 6
- OTHER STATE'S MEASURES 6
- THE WAVE OF THE FUTURE 8
- MOVING FORWARD 9
- ADDENDUM 10



SERIAL PLAINTIFFS

THE ABUSE OF ADA TITLE III

AN IN-DEPTH LOOK AT HOW PLAINTIFFS' LAWYERS EXPLOIT A LAW WITH GOOD INTENTIONS
A LAWSUIT REFORM ALLIANCE OF NEW YORK REPORT



LRANY | Legal Reform Alliance of New York

ADA Title III

The Department of Justice's 2010 ADA regulations have been a landmark achievement. But in 2010, the Congress passed the ADA Amendments Act, which amended the ADA to provide broader protection for individuals with disabilities. The ADA Amendments Act was intended to ensure that the ADA's broad scope of protection would not be limited by the Supreme Court's narrow interpretation of the ADA's "substantial limitations" standard. The ADA Amendments Act was intended to ensure that the ADA's broad scope of protection would not be limited by the Supreme Court's narrow interpretation of the ADA's "substantial limitations" standard.

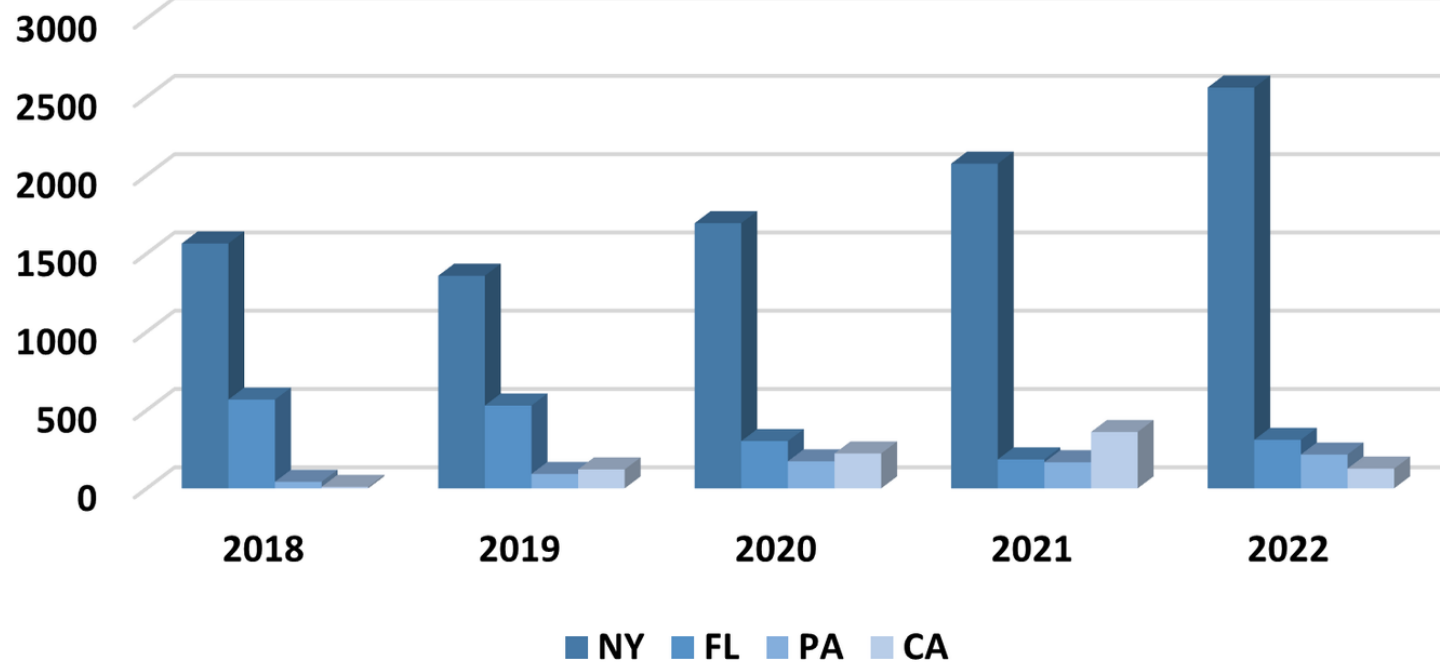


The Problem

Instead, ADA plaintiffs are now suing with frequency and impunity. The problem is not with the ADA, but with the way it is being used. The ADA Amendments Act was intended to ensure that the ADA's broad scope of protection would not be limited by the Supreme Court's narrow interpretation of the ADA's "substantial limitations" standard.

Federal ADA Website Accessibility Lawsuits 2018-2022

Source: Seyfarth shaw, LLP 2023.



Federal courts are getting fed up. Indications are these cases are moving to state courts.

NEW YORK

Brooklyn lawyer files avalanche of lawsuits over website accessibility for the blind



By STEPHEN REX BROWN

NEW YORK DAILY NEWS | SEP 23, 2018 | 4:00 AM



Braulio Thorne, who has sued 45 different companies. (Michael DiDonna for New York Daily News)

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with Microsoft Photos.

Learn more

*"This is unquestionably being abused. **The goal of these cases is just to get legal fees,**" said Tom Stebbins, executive director of the Albany-based Lawsuit Reform Alliance of New York.*



METRO

This disability lawyer has been scamming his clients by filing lawsuits without their consent

By [Julia Marsh](#)

February 14, 2019 | 10:50pm | Updated



Jose Figueroa
David McGlynn

"...trying to nail mom-and-pop places that can't afford long litigation."



ACTING LEGEND SIR SIDNEY POITIER DEAD AT 94

Acting legend Sir Sidney Poitier dies age 94



KIPP NYC teacher arrested for sexually abusing student, principal ousted over...



Canadian influencers stuck in Mexico as airlines refuse to fly them home after on-air

NEW YORK

Lawyer filed bogus ADA lawsuits without telling his own disabled clients: prosecutors

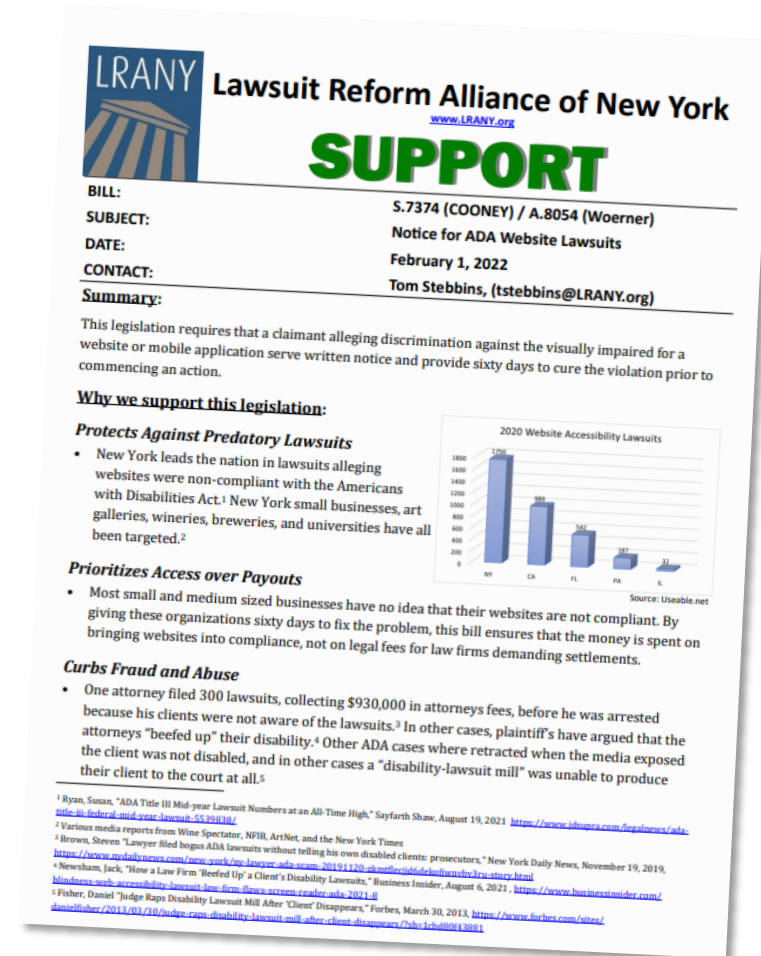
By **STEPHEN REX BROWN**

NEW YORK DAILY NEWS | NOV 19, 2019 AT 7:01 PM



60-day Cure Period

- A1684 (Woerner) / S920 (COONEY)
- Gives businesses sixty days before facing litigation
- Bill already supported by hospitality, tourism, and recreation advocates
- Focuses on solving the access problem, rather than the payouts
- Politically easier for politicians



LRANY Lawsuit Reform Alliance of New York
www.LRANY.org
SUPPORT


BILL: S.7374 (COONEY) / A.8054 (Woerner)
SUBJECT: Notice for ADA Website Lawsuits
DATE: February 1, 2022
CONTACT: Tom Stebbins, (tstebbins@LRANY.org)

Summary:
 This legislation requires that a claimant alleging discrimination against the visually impaired for a website or mobile application serve written notice and provide sixty days to cure the violation prior to commencing an action.

Why we support this legislation:

Protects Against Predatory Lawsuits

- New York leads the nation in lawsuits alleging websites were non-compliant with the Americans with Disabilities Act.¹ New York small businesses, art galleries, wineries, breweries, and universities have all been targeted.²



Prioritizes Access over Payouts

- Most small and medium sized businesses have no idea that their websites are not compliant. By giving these organizations sixty days to fix the problem, this bill ensures that the money is spent on bringing websites into compliance, not on legal fees for law firms demanding settlements.

Curbs Fraud and Abuse

- One attorney filed 300 lawsuits, collecting \$930,000 in attorneys fees, before he was arrested because his clients were not aware of the lawsuits.³ In other cases, plaintiffs have argued that the attorneys "beefed up" their disability.⁴ Other ADA cases where retracted when the media exposed the client was not disabled, and in other cases a "disability-lawsuit mill" was unable to produce their client to the court at all.⁵

¹ Ryan, Susan, "ADA Title III Mid-year Lawsuit Numbers at an All-Time High," Sayfarth Shaw, August 19, 2021 <https://www.iduspa.com/legalnews/ada-iii-ii-federal-mid-year-lawsuit-5529810/>
² Various media reports from Wine Spectator, NFIB, ArtNet, and the New York Times
³ Brown, Steven "Lawyer filed bogus ADA lawsuits without telling his own disabled clients: prosecutors," New York Daily News, November 19, 2019, <https://www.nydailynews.com/new-york/ny-lawyer-ada-scam-2019-11-20-ak-mfc-jcf/d/da/ny-lawyer-ada-story.html>
⁴ Newsham, Jack, "How a Law Firm 'Beefed Up' a Client's Disability Lawsuits," Business Insider, August 6, 2021, <https://www.businessinsider.com/disability-ada-accessibility-lawsuit-how-law-firm-beefed-up-client-ada-2021-8>
⁵ Fisher, Daniel "Judge Raps Disability Lawsuit Mill After 'Client' Disappears," Forbes, March 30, 2013, <https://www.forbes.com/sites/danielfisher/2013/03/30/judge-raps-disability-lawsuit-mill-after-client-disappears/?sh=1cb00043001>

We need more broad support on this. Too many industries have already paid off these trolls.



cham·per·ty

/ˈCHampərdeɪ/

noun **LAW**

an illegal agreement in which a person with no previous interest in a lawsuit finances it with a view to sharing the disputed property if the suit succeeds.

In New York this is legal. The loans are mischaracterized as investments, shielding them from consumer protection and usury laws



68% = Average Interest Rate

According to New York usury law, charging over 16% voids the loan, charging over 25% is a felony.



Larry Long: Received \$4000 of his \$28,000 settlement - effective interest: 266%

Joseph Gill: Owed \$116,00 on his \$4000 loan - effective interest 70%



Carolyn Williams: \$19,000 on her \$5000 loan - effective interest: 76%

These are just the people who went to the media.

Why Do You Care?

Oasis
Legal Finance

U
S
A
Lawsuit
Loans

 **CASH CASH**
IF YOU HAVE A CASE, WE HAVE THE CASH



- ✓ No Up-Front Fees
- ✓ No Credit Checks
- ✓ No Employment Checks
- ✓ If you don't win, don't pay!
- ✓ 24-Hour Approvals!*

Call Now! (Toll Free)
1.866.507.1888

*After legal documents received

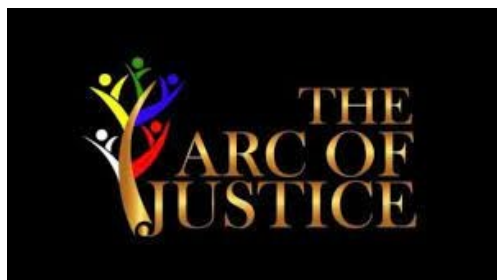


Get cash in 24 Hours!

Millions in advertising is being spent each week encouraging people to sue you. The higher the interest rate, the more speculative lawsuits that can be funded.



CONSUMERS FOR
**FAIR
LEGAL
FUNDING**



Bill passed state senate in 2023.
We need more support. No cost to join.

A black and tan dog is sitting on a dark carpeted floor in a room. The wall behind the dog is covered with several framed certificates and a small plaque that says "WALL OF HONOR". The room is dimly lit, with a spotlight effect on the dog and the wall behind it.

THANK YOU

Tom Stebbins
Executive Director
Lawsuit Reform Alliance of NY
TSTEBBINS@LRANY.ORG