



## **American Tort Reform Association**

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### **CIVIL JUSTICE REFORM *OUTLOOK*** **January 2009**

To: ATRA Members and Friends

From: Matt Fullenbaum, Director of Legislation  
Elizabeth Emery, Assistant Director of Legislation

Re: ATRA's Civil Justice Reform *Outlook*, 2009

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Attached is the 2009 edition of ATRA's tort reform *Outlook*, our compendium of the civil justice reform activity expected in the states for 2009. Last year we saw numerous states consider legislation to improve the civil justice system. However, we did witness an unprecedented level of activity in state legislatures by the trial bar – over 100 bills were considered in 25 states that would have benefited personal injury lawyers.

We anticipate that in 2009, as in 2008, many states, will see an aggressive trial bar continue to push an agenda to expand liability on such issues such as wrongful death, consumer protection, expansion of damages, and repeal of existing tort reform law. Last year in response to this growing trend, ATRA created a “Defensive Efforts” program to support the efforts of state tort reform coalitions and ATRA's dues paying members to defeat dangerous trial lawyer legislation. Early next week, ATRA is launching a new website that will allow quick and easy access to the latest information about trial lawyer legislation --- a separate notification will be sent with additional details.

Finally, while the political climate is challenging, ATRA will continue to aggressively pursue affirmative reforms to bring much needed positive changes to the civil justice system. ATRA expects to support allies in Oklahoma, South Carolina and Tennessee in their efforts to enact comprehensive legislative reform packages.

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While we try to be comprehensive with our *Outlook*, this document is by no means meant to be exhaustive. If you have supplemental information, please do not hesitate to share it with us.

## ALABAMA

**SESSION DATE** 02/03/09 – 05/19/09  
**HOUSE** 62 D 43 R  
**SENATE** 21 D 13 R 1 Vacant

**GOVERNOR:** Bob Riley (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Skip Tucker</b> Alabama Voters Against Lawsuit Abuse (AVALA) P. O. Box 2487 Montgomery, Alabama 36102 334-263-0052 Fax # 334-206-1044	<b>Mr. Larry Vinson</b> Executive Director Alabama Civil Justice Reform Committee P. O. Box 240757 Montgomery, Alabama 36124 334-260-7970 Fax # 334-272-7128
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Once again, Alabama will mainly be on the defensive this year. A measure to move to a nonpartisan election of appellate judges is expected, as well as one to introduce campaign finance measures to limit corporations' ability to participate in elections and another to expand toxic tort liability by repealing the current statute of limitations. The civil justice reform community plans to introduce private attorney "sunshine" legislation as well as product liability reform legislation similar to that introduced in past years. Senate Judiciary Chair Roger Smitherman (D) is expected to be an obstacle to any reform legislation.

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## ALASKA

**SESSION DATE** 01/20/09 – 04/19/09  
**HOUSE** 18 D 22 R  
**SENATE** 10 D 10 R

**GOVERNOR:** Sarah Palin (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Jim Jordan</b> Executive Director Alaska State Medical Association 4107 Laurel Street Anchorage, Alaska 99508 907-562-0304 Fax # 907-561-2063	<b>Al Tamagni, Sr.</b> Alaskans for Liability Reform 520 E. 34 <sup>th</sup> Avenue Suite 303 Anchorage, Alaska 99503 907-562-3938 Fax # 907-562-1366
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No legislative activity reported.

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## ARIZONA

**SESSION DATE** 01/12/09 – 05/09/09  
**HOUSE** 25 D 35 R  
**SENATE** 12 D 18 R

**GOVERNOR:** TBD  
**RE-ELECTION YEAR:** 2010

<b>Mr. Glenn Hamer</b> President Arizona Chamber of Commerce 1850 N. Central Avenue, Suite 1010 Phoenix, Arizona 85004 602-248-9172 Fax # 602-265-1262	<b>Ms. Michelle Bolton</b> State Director NFIB/Arizona 3550 North Central Avenue, Suite 1806 Phoenix, AZ 85012 602-263-7690 Fax # 602-263-7790	<b>Mr. Chic Older</b> Executive Vice President Arizona Medical Association 810 West Bethany Home Rd. Phoenix, Arizona 85013 602-246-8901 FAX: 602-242-6283
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The overriding issue facing Arizona legislators is the FY 2009 budget. Observers on the ground advise ATRA that non-fiscal issues will take a back seat until all budget-related matters are settled. Given the current environment, it remains unclear if and when civil justice reform issues, or for that matter issues favored by the trial bar, will be considered. A number of placeholder bills have been introduced related to tort reform, but we do not expect any action on these in the foreseeable future.

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## ARKANSAS

**SESSION DATE** 01/12/09 – 03/20/09  
**HOUSE** 71 D 28 R 1 Ind.  
**SENATE** 27 D 8 R

**GOVERNOR:** Mike Beebe (D)  
**RE-ELECTION YEAR:** 2010

<b>Mr. David Wroten</b> Executive Vice President Arkansas Medical Society P. O. Box 55088 Little Rock, Arkansas 72215 501-224-8967 Fax # 501-224-6489	<b>Mr. Nick Thompson</b> Committee to Save Arkansas Jobs 425 West Capitol, Suite 1800 Little Rock, Arkansas 72201 501-688-8834 Fax # 501-688-8807
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Observers in Little Rock do not anticipate the business community or the trial bar to push legislation related to the civil justice system. However, the trial bar has mounted legal challenges to several aspects of the comprehensive reform legislation that was enacted in 2003, HB 1038, and there are two cases before the Supreme Court: (1) a challenge to the limit on punitive damages; and (2) a challenge to the measure of medical expense damages as well as joint and several liability reform.

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## CALIFORNIA

**SESSION DATE 12/01/08 – 09/14/09**  
**HOUSE 50 D 30 R**  
**SENATE 26 D 14 R**

**GOVERNOR: Arnold Schwarzenegger (R)**  
**RE-ELECTION YEAR: 2010**

<b>Mr. John H. Sullivan</b> <b>President</b> <b>Civil Justice Association of California</b> <b>1201 K Street, Suite 1960</b> <b>Sacramento, California 95814</b> <b>916-443-4900 Fax # 916-443-4306</b>	<b>Mr. Michael Shaw</b> <b>Legislative Director</b> <b>NFIB/California</b> <b>455 Capitol Mall, Suite 225</b> <b>Sacramento, California 95814</b> <b>916-448-9904 Fax # 916-448-5442</b>
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California will have a number of reform bills introduced this year. Among possibilities for reform legislation are the following: class action reform to provide statutory standards; summary judgment law legislation; appeal bond limits; punitive damages limits; alternative dispute resolution processes legislation; joint and several liability limits; and legislation to limit or reduce liability on the part of educators and schools. As in many other states, defense will also be a major activity this year. The opposition is expected to again attack MICRA and attempt to raise the limits on pain and suffering damages from the current maximum of \$250,000, as well as trying to weaken medical malpractice law in other ways. The trial-bar will likely attempt to introduce additional privacy protection bills that include private rights of action in addition to introducing legislation to expand liability in the area of consumer protection. Other expected legislation from the opposition includes: bills to prohibit confidential settlement agreements (similar to AB1700, 2005-2006 session); attacks on arbitration, both generally (similar to AB2371 in 2006) and industry or claim-specific (as in AB2947, vetoed in 2008); and product liability legislation (AB2690 of 2008) that would allow lawsuits by patients against makers of prescription medicines. Both Assembly and Senate Judiciary Committees will be difficult to handle, with a significant number of pro-trial-bar legislators on each.

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## COLORADO

**SESSION DATE 01/07/09 – 05/06/09**  
**HOUSE 40 D 25 R**  
**SENATE 21 D 14 R**

**GOVERNOR: Bill Ritter (D)**  
**RE-ELECTION YEAR: 2010**

<b>Mr. Jeff Weist</b> <b>Executive Director</b> <b>Colorado Civil Justice League</b> <b>1512 Larimer Street</b> <b>Denver, Colorado 80202</b> <b>303-884-0727 Fax # 303-436-1191</b>	<b>Mr. Tony Gagliardi</b> <b>State Director</b> <b>NFIB/Colorado</b> <b>1410 Grant Street, Suite C-107</b> <b>Denver, Colorado 80203</b> <b>303-833-5622 Fax # 303-860-1787</b>
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Among other states, Colorado is not anticipating much reform legislation this session, but does expect to revisit 2008's SB164 in an attempt to limit noneconomic damages. The opposition is expected to introduce a number of bills to expand liability. Unfortunately, the newly elected Speaker of the House is a trial attorney, further compounding the difficulty both of passing reform legislation and defeating trial-bar sponsored bills.

## CONNECTICUT

**SESSION DATE** 01/07/09 - 06/03/09  
**HOUSE** 114 D 37 R  
**SENATE** 24 D 12 R

**GOVERNOR:** M. Jodie Rell (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Andy Markowski</b> State Director NFIB/CT Gara & Markowski, LLC Government Relations 25 Capitol Avenue Hartford, CT 06106 860-707-3620 Fax # 860-349-2406	<b>Mr. Kevin R. Hennessy</b> Staff Attorney Connecticut Business & Industry Association 350 Church Street Hartford, Connecticut 06103 860-244-1979 Fax # 860-244-8501	<b>Mr. Ken Ferrucci</b> Director of Government Affairs Connecticut State Medical Society 160 St. Ronan Street New Haven, Connecticut 06511 203-865-0587 Fax # 203-865-4997
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Following the national trend, we do not anticipate any significant civil justice reform legislation to be introduced in Connecticut this year. The political environment is challenging, and personal injury lawyers are expected to flex their muscles. Contacts advise ATRA that a False Claims Act bill is to be introduced at the behest of Attorney General Richard Blumenthal (D) and the trial bar is likely to continue to push for repeal of workers compensation reform.

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## DELAWARE

**SESSION DATE** 01/06 /09 – 06/30/09  
**HOUSE** 25 D 16 R  
**SENATE** 16 D 5 R

**GOVERNOR:** Jack Markell (D)  
**RE-ELECTION YEAR:** 2012

<b>Mr. Nitin S. Rao</b> Director, Health Policy Research Medical Society of Delaware 131 Continental Drive, Suite 405 Newark, Delaware 19713 302-658-7596 Fax # 302-658-9669
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No legislative activity reported.

## DISTRICT OF COLUMBIA

**ALL YEAR SESSION  
D.C. COUNCIL**

**MAYOR: Adrian Fenty (D)  
RE-ELECTION YEAR: 2010**

<p><b>Mr. K. Ed Shanbacker Executive Vice President Medical Society of the District of Columbia 1115 30<sup>th</sup> Street, NW Washington, D. C. 20007 202-466-1800 Fax # 202-452-1542</b></p>
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No activity reported

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## FLORIDA

**SESSION DATE      03/03/09 - 05/01/09**  
**HOUSE              44 D    76 R**  
**SENATE             14 D    26 R**

**GOVERNOR: Charlie Crist (R)  
RE-ELECTION YEAR: 2010**

<p><b>Mr. Barney T. Bishop III President &amp; CEO Associated Industries of Florida 516 N. Adams Street Tallahassee, Florida 32301 850-224-7173 Fax # 850-557-5255</b></p>	<p><b>Mr. William W. Large President Florida Justice Reform Institute 210 South Monroe Street Tallahassee, Florida 32301-1824 850-222-0170 Fax # 850-222-1098</b></p>
<p><b>M. Jeffery Scott Associate General Counsel Florida Medical Association 123 South Adams Street Tallahassee, Florida 32301 850-893-4155 Fax # 850-668-2852</b></p>	<p><b>Mr. Carlos Muhetaler Executive Director Florida STOP Lawsuit Abuse 595 S. Federal Hwy, Ste 600 Boca Raton, Florida 33432 561-544-2508</b></p>

In Florida, reform legislation is likely to include efforts to further bring fairness and accountability to medical malpractice laws as well as CPA reform legislation. The reform community also expects to introduce workers' compensation reform. The Florida trial-bar has been very active in the past few years and is expected to again introduce many bills to expand liability and weaken reforms of the past. Several of 2008's bills are again expected to be brought up and legislation attacking arbitration is very likely.

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## GEORGIA

**SESSION DATE** 01/12/09 – 04/03/09

**HOUSE** 75 D 105 R

**SENATE** 22 D 34 R

**GOVERNOR:** Sonny Perdue (R)

**RE-ELECTION YEAR:** 2010

**Mr. Donald J. Palmisano, Jr.  
General Counsel  
Medical Association of Georgia  
1849 The Exchange, Suite 200  
Atlanta, Georgia 30339  
678-303-9280 Fax # 678-303-9279**

Georgia's tort reform community does not expect much viable reform legislation this year. However, the opposition is expected to bring up several bills from the 2007 and 2008 session, including legislation to repeal the gross negligence standard in medical malpractice cases and legislation to weaken current apology provisions and expert witness standards in the evidence code. In addition, in 2008 a case challenging the limit on noneconomic damages reached the Supreme Court, but the case was settled prior to the hearing; another challenge is expected soon.

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## HAWAII

**SESSION DATE** 01/21/09 - 05/07/09

**HOUSE** 45 D 6 R

**SENATE** 23 D 2 R

**GOVERNOR:** Linda Lingle (R)

**RE-ELECTION YEAR:** 2010

**Gary Slovin, Esq.  
Coordinator  
Coalition to Stop Lawsuit Abuse  
1099 Alakea Street, Suite 1800  
Honolulu, Hawaii 96813  
808-547-5600 Fax # 808-547-5880**

**Ms. Paula Arcena  
Executive Director  
Hawaii Medical Association  
1360 S. Beretania Street, Suite 200  
Honolulu, Hawaii 96814  
808-536-7702 Fax # 808-528-2376**

Similar to that of many states, the legislative climate in Hawaii this year will be more favorable to plaintiffs' attorneys, and little reform legislation is expected. In both House and Senate, Consumer Protection and Judiciary committee chairs are unlikely to be friendly towards tort reform efforts.

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## IDAHO

**SESSION DATE** 01/12/09 – 04/08/09  
**HOUSE** 18 D 52 R  
**SENATE** 7 D 28 R

**GOVERNOR: C.L. Butch Otter (R)**  
**RE-ELECTION YEAR: 2010**

<b>Mr. Kenneth R. McClure</b> Coordinator Idaho Tort Reform Coalition P. O. Box 2720 Boise, Idaho 83701 208-388-1200 Fax # 208-388-1300 krm@givenspursley.com	<b>Mr. Alex LaBeau</b> Idaho Association of Commerce & Industry P. O. Box 389 Boise, Idaho 83701 208-343-1849 Fax # 208-338-5623 alabeau@iaci.org
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During the 2008 elections, the trial-bar failed to make any additional gains in Idaho. As a result, the opposition is not expected to make much of a fight during 2009. The tort reform community expects to introduce a version of PARSA, but the current attorney general is not supportive of the legislation. In addition, House and Senate chairs of the Judiciary committees are unenthusiastic about tort reform in general and unlikely to help any potential reform legislation.

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## ILLINOIS

**SESSION DATE** 01/14/09 - 01/07/10  
**HOUSE** 707 D 48 R  
**SENATE** 37 D 22 R

**GOVERNOR: Rod Blagojevich (D)**  
**RE-ELECTION YEAR: 2010**

<b>Mr. Edward D. Murnane</b> President Illinois Civil Justice League P. O. Box 308 Arlington Heights, Illinois 60006 847-222-9673 Fax # 847-890-6123	<b>Ms. Suzanne Nelson</b> Vice President of Government Affairs Illinois State Medical Society 20 North Michigan Avenue, Suite 700 Chicago, Illinois 60602-4890 312-782-1654 Fax # 312-782-2023	<b>Ms. Kim Clarke Maisch</b> State Director NFIB/Illinois 600 South Second Street, Suite 101 Springfield, Illinois 62704 217-523-5471 Fax # 217-523-3850
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Unique among the states during this legislative year, Illinois first must determine who its governor will be for the next two years. It is expected that Lieutenant Governor Pat Quinn (D) will replace Governor Rod Blagojevich (D), and is likely to be friendly to the trial bar. The Illinois State Bar Association, with full support from the Illinois Trial Lawyers Association, is proposing legislation that would require pre-judgment interest payments in civil cases. The reform community, led by the Illinois Civil Justice League, anticipates this legislation will be the trial lawyers' highest priority, and thus blocking it to be the reform community's first priority. The trial bar will also likely try to bring the "Structural Work Act" back up, as they did last year. It would allow injured workers to collect from two sources: workers compensation and the Structural Work Act, in workplace injuries. On the proactive side, we expect a number of reform bills, including: jury service reform; a bill to prohibit plaintiffs' attorneys from using Freedom of Information requests to get motor vehicle accident records for the purpose of contacting potential plaintiffs; venue reform; expert testimony reform; consumer protection act reform; class action reform; joint and several liability reform; full and fair noneconomic damages reform; asbestos evidence reform; and product liability reform. Because of the reshuffling in the office of governor and the legislative tasks that correspond, this year could be very unpredictable in Illinois.

## INDIANA

**SESSION DATE** 11/18/08 – 04/29/09  
**HOUSE** 52 D 49 R  
**SENATE** 17 D 33 R

**GOVERNOR:** Mitch Daniels (R)  
**RE-ELECTION YEAR:** 2012

Ms. Barbara Quandt  
State Director  
NFIB/Indiana  
101 W. Ohio Street, Suite 470  
Indianapolis, Indiana 46204  
317-638-4447 Fax# 317-638-4450

Very little is expected this year in Indiana. Although the trial bar has a bill introduced in both houses that would deal with product liability, premises liability, and workers' compensation, it is very unlikely that it will be heard in either House or Senate. There will be no major affirmative reforms from Indiana this year.

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## IOWA

**SESSION DATE** 01/12/09 – 05/01/09  
**HOUSE** 56 D 44 R  
**SENATE** 31 D 19 R

**GOVERNOR:** Chet Culver (D)  
**RE-ELECTION YEAR:** 2010

Mr. John R. Gilliland  
Senior Vice President, Government Relations  
Iowa Association of Business and Industry  
904 Walnut Street, Suite 100  
Des Moines, Iowa 50309  
515-235-0566 Fax # 515-244-8907

Mr. Andy Warren  
State Director  
NFIB/Iowa  
200 East Grand Avenue, Suite 390  
Des Moines, Iowa 50309  
515-243-4723 Fax # 515-244-8143

Civil justice reform proponents face an uphill battle this year. Both houses of the legislatures and Governor Culver (D) are heavily supported by the trial bar. As in last year's session, expect personal injury lawyers this year once again to pursue legislation to create a private right of action under the state's consumer protection act. We also anticipate the trial bar to pursue insurance policy limits discovery prior to litigation. On the flip side, civil justice reform proponents to bring up expert witness reform as well as legislation based on ALEC's model *Private Attorney Retention Sunshine Act*.

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## KANSAS

**SESSION DATE** 01/12/09 – 05/06/09  
**HOUSE** 48 D 77 R  
**SENATE** 9 D 31 R

**GOVERNOR:** Kathleen Sebelius (D)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Brad Smoot</b> Coordinator Kansas Civil Law Forum 800 SW Jackson Street, Suite 808 Topeka, Kansas 66612 785-233-0016 Fax # 785-234-3687	<b>Mr. Derrick Sontag</b> State Director NFIB/Kansas 112 SW Sixth Street, Suite 408 Topeka, Kansas 66603 785-213-9769
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No activity reported.

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## KENTUCKY

**SESSION DATE** 01/06/09 – 03/30/09  
**HOUSE** 65 D 35 R  
**SENATE** 15 D 22 R 1 Ind.

**GOVERNOR:** Steve Beshear (D)  
**RE-ELECTION YEAR:** 2011

<b>Mr. Bryan Sunderland</b> Director, Public Affairs Kentucky Chamber of Commerce 464 Chenault Road Frankfort, Kentucky 40601 502-695-4700 Fax # 502-848-8745	<b>Mr. William Applegate</b> Executive Vice President Kentucky Medical Association 4965 US Highway 42, Suite 2000 Louisville, Kentucky 40222 502-426-6200 Fax # 502-426-6877
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In Kentucky, much of the focus from both sides will be on the issue of employer liability. The reform community will be attempting to remove or limit employer liability in hiring/firing decisions and to reduce the statute of limitations in cases of wrongful termination. The trial bar is expected to create additional employer liability in the area of gender discrimination as well as attempt to add causes of action to workers' compensation. Those in the reform community also expect another introduction of retroactive loss of consortium expansion legislation, similar to 2008's HB297. Both House and Senate Judiciary chairs are practicing attorneys, though the House chair has been helpful and supportive of reform in the past.

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## LOUISIANA

**SESSION DATE** 04/27/09 – 06/25/09

**HOUSE** 52 D 50 R 3 Ind

**SENATE** 22 D 15 R 2 Vacant

**GOVERNOR:** Bobby Jindal (R)

**RE-ELECTION YEAR:** 2011

<b>Coalition For Common Sense</b> 521 Laurel Street Baton Rouge, LA 70820 800-545-3404	<b>Ms. Jonica Coates</b> Director, Civil Justice Reform Council Louisiana Association of Business & Industry 3113 Valley Creek Drive Baton Rouge, Louisiana 70808 225-928-5388 Fax # 225-929-6054
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The state's principal tort reform organization, Coalition for Common Sense, is expected to pursue a robust agenda during 2009, including: asbestos reform in the areas of bankruptcy transparency, discovery in exposure cases, and venue; a \$25 million appeal bond cap; limits on damages to those medical expenses actually paid or incurred; and electronic discovery reform. Observers do expect the trial bar to work with organized labor and anti-insurance groups, especially in light of Hurricane Gustave, which caused more damages than most of the nation realizes and has opened a lot of old Katrina wounds.

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## MAINE

**SESSION DATE** 12/03/08 – 06/17/09

**HOUSE** 96 D 54 R 1 Ind

**SENATE** 20 D 15 R

**GOVERNOR:** John Baldacci (D)

**RE-ELECTION YEAR:** 2010

<b>Mr. Andrew B. MacLean</b> Deputy Executive Vice President Maine Medical Association P. O. Box 190 Manchester, Maine 04351 207-622-3374 Fax # 207-622-3332	<b>Mr. David R. Clough</b> State Director NFIB/Maine P. O. Box 796 South Freeport, Maine 04078 207-846-5776 Fax # 207-846-6067
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The environment in Maine is decidedly unfriendly to tort reform efforts. Among other efforts, the trial bar is expected to attempt to extend the medical malpractice statute of limitations and weaken current standards for medical malpractice screening panels. The reform community will be on the defense, attempting to combat the trial-bar-sponsored legislation.

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## MARYLAND

**SESSION DATE** 01/14/09 – 04/13/09  
**HOUSE** 104 D 36 R 1 Ind.  
**SENATE** 33 D 14 R

**GOVERNOR:** *Martin O'Malley (D)*  
**RE-ELECTION YEAR:** 2010

<b>Mr. Ronald W. Wineholt</b> Vice President, Government Affairs Maryland Chamber of Commerce 60 West Street, Suite 100 Annapolis, Maryland 21401 410-269-0642 Fax # 410-269-5247	<b>Ms. Ellen Valentino</b> State Director NFIB/Maryland 176 Main Street, Suite A Annapolis, Maryland 21401 410-267-0335 Fax # 410-990-9503
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Although Maryland is facing a massive budget shortfall for FY 2009 which will consume much of the legislative oxygen in Annapolis, personal injury lawyers are expected to continue to flex their political muscles. As in past sessions, the business community expects the trial bar to pursue comparative fault; Maryland is one of only four states that still has the common law doctrine of contributory negligence, and there have been at least nine attempts to institute comparative fault. We also expect the trial bar to pursue legislation pertaining to: the false claims act; lead paint market share liability; and ways to make it easier to sue businesses under the state's consumer protection act. Fortunately, the business community has effectively blocked most trial bar initiatives. With respect to affirmative legislation, reform proponents may pursue "I'm sorry" legislation that pertains to health care providers.

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## MASSACHUSETTS

**SESSION DATE** 01/07/09 – 01/05/10  
**HOUSE** 143 D 16 R 1 Ind  
**SENATE** 35 D 5 R

**GOVERNOR:** *Deval Patrick (D)*  
**RE-ELECTION YEAR:** 2010

<b>Mr. Brian Gilmore</b> Vice President of Public Affairs Associated Industries of Massachusetts 222 Berkeley Street Boston, Massachusetts 02117 617-262-1180 Fax # 617-536-6785	<b>Mr. William Vernon</b> State Director NFIB/Massachusetts 10 High Street, Suite 401 Boston, Massachusetts 02110 617-482-1327 Fax # 617-482-5286	<b>Charles Alagero</b> Vice President & General Counsel Massachusetts Medical Society 860 Winter Street Waltham, Massachusetts 02451 781-893-4610 Fax # 781-893-3481
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Democrats dominate the General Court with overwhelming majorities in both the House and Senate. Over the past few years, civil justice reform proponents have focused the bulk of their attention on amending the state's consumer protection statute, 93A; it is unclear what will occur legislatively this year with respect to this statute. We do expect the healthcare community to pursue a number of medical liability reform bills during the 2009 session.

## MICHIGAN

**SESSION DATE** 01/14/09 – 12/31/09  
**HOUSE** 67 D 43 R  
**SENATE** 17 D 21 R

**GOVERNOR:** Jennifer Granholm (D)  
**RE-ELECTION YEAR:** 2010

<b>Ms. Wendy Block</b> Director, Health Policy and Human Resources Michigan Chamber of Commerce 600 S. Walnut Street Lansing, MI 48933 517-371-7678 Fax # 517-771-7224 wblock@michamber.com	<b>Mr. Robert B. Dorigo Jones</b> President Michigan Lawsuit Abuse Watch (M-LAW) 39555 Orchard Hill Place, Suite 600 Novi, Michigan 48901 248-449-2990 Fax # 734-207-1527 bob@mlaw.org
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The trial bar is expected to aggressively pursue its agenda this year as sympathetic legislators have increased their majority in the House to a 66-44 margin. As in the past few years, their legislative priorities include: repeal of the FDA defense; expansion of the Consumer Protection Act; erosion of previously enacted medical liability reform, including expert witness standards, affidavit of merit, statute of limitations; and erosion of automobile no-fault. The business community, being led by the Michigan Chamber of Commerce, will pursue a vigorous campaign to prevent the rollback/repeal of existing tort reform law and expansion of liability.

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## MINNESOTA

**SESSION DATE** 01/06/09 - 05/18/09  
**HOUSE** 87 D 47 R  
**SENATE** 46 D 21 R

**GOVERNOR:** Tim Pawlenty (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Mike Hickey</b> State Director NFIB/Minnesota 332 Minnesota Street Suite E-1316 - FNB Bldg St. Paul, Minnesota 55101 651-293-1283 Fax # 651-293-0084	<b>Mr. Bob Johnson</b> Minnesotans Against Lawsuit Abuse 400 Robert Street, N., Suite 208 St Paul, Minnesota 55101 651-303-8902 bjohnson@insurancemn.org
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We expect both the civil justice reform community and the trial bar to be active this year. On the affirmative side, tort reformers are poised to push legislation to allow for the interlocutory appeal of class certifications. In addition, reformers are going to try to pass legislation that would shorten the general statute of limitations for civil cases from six years to three or four. Consumer protection act reform legislation is also under active consideration by reform proponents. On the flip side, trial lawyers are likely to try to amend joint and several liability reforms enacted in 2003 (SF 872). They are also likely to pursue one way loser pays in commercial lines of insurance similar in nature to the unsuccessful HF 3975 from the 2008 legislative session.

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## MISSISSIPPI

**SESSION DATE 01/06/09 – 04/05/09**  
**HOUSE 74 D 48 R**  
**SENATE 27 D 25 R**

**GOVERNOR: Haley Barbour (R)**  
**RE-ELECTION YEAR: 2011**

<b>Mr. Scott Waller</b> Senior Vice President, Government Relations MS State Chamber of Commerce 666 North Street, Suite 104 P. O. Box 23276 Jackson, Mississippi 39225 601-969-0022 Fax # 601-353-0247	<b>Mr. Mark Leggett</b> Director, Government Affairs Mississippi Manufacturers Association 720 N. President Street Jackson, Mississippi 39202 601-948-1222 Fax # 601-948-1475
<b>Ms. Charmain Kanosky</b> Executive Director Mississippi State Medical Association P. O. Box 2548 Ridgeland, Mississippi 39158 601-853-6733 Fax # 601-853-6746	<b>Mr. David L. Allen</b> Mississippians for Economic Progress 1995 Lakeland Drive P. O. Box 3025 Ridgeland, Mississippi 39158 601-352-6337 Fax # 601-352-7869

We expect both sides of the civil justice debate to be very active during this year's legislative session. Civil justice reform proponents are expected to pursue legislation based on ALEC's model *Private Attorney Retention Sunshine Act*, to rein the excesses associated with the Attorney General's practice of hiring private, contingency fee attorneys. We also expect introduction of legislation to limit bonding requirements for appealing a decision. On the other hand, personal injury lawyers and their allies have already filed a number of bills that would expand liability or repeal existing tort reform measures, such as: HB 61 - allows the Attorney General to retain outside counsel to pursue consumer protection claims; HB 80 - expands damages available in whistleblower actions; HB 226 - repeals limitations of exclusions; HB 266 - enhances the attorney general's authority pertaining to "price gouging"; and HB 352 - eliminates the certificate of merit requirement in medical liability cases.

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## MISSOURI

**SESSION DATE 01/07/09 – 05/30/09**  
**HOUSE 74 D 89 R**  
**SENATE 11 D 23 R**

**GOVERNOR: Jay Nixon (D)**  
**RE-ELECTION YEAR: 2012**

<b>Mr. Thomas L. Holloway</b> Director of Government Relations Missouri State Medical Association P. O. Box 1028 Jefferson City, Missouri 65102 573-636-5151 Fax # 573-636-8552	<b>Mr. Trey Davis</b> Vice President, Governmental Affairs Missouri Chamber of Commerce P O Box 149 Jefferson City, Missouri 65102 573-634-3511 Fax # 573-634-8855	<b>Mr. Brad Jones</b> State Director NFIB/Missouri 308 E. High Street, Suite 110 Jefferson City, Missouri 65101 573-634-7660 Fax # 573-636-7010
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Even though Missouri was one of a few states where the legislature's makeup did not significantly change after the elections, former attorney general and new governor Jay Nixon (D) is supported by the Missouri Association of Trial Attorneys, and not a friend of reform. Several reform bills from last year's session are expected to be introduced again, including CPA reform and litigation "sunshine" legislation. In the courts, the state is awaiting a

Supreme Court decision on worker's compensation legislation enacted in 2005. Also carrying over from last year, the Missouri Nonpartisan Court Plan is expected to be an active legislative topic during the session.

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## **MONTANA**

**SESSION DATE** 01/05/09 – 04/28/09  
**HOUSE** 50 D 50 R  
**SENATE** 23 D 27 R

**GOVERNOR:** Brian Schweitzer (D)  
**RE-ELECTION YEAR:** 2012

<b>Mr. Jon Bennion</b> Government Relations Director Montana Chamber of Commerce P. O. Box 1730 Helena, Montana 59601 406-442-2405 Fax # 406-442-2409	<b>Jacqueline T. Lenmark, Esq.</b> Director Montana Liability Coalition P. O. Box 598 Helena, Montana 59624 406-442-0230 Fax # 406-449-2256
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With a bit of light in a dark forecast, the Montana trial bar is not expected to be very successful with any of their legislative attempts this year. The business community is expected to push for judicial recusal legislation, requiring a judge to recuse his or herself when a campaign contributor is in court. They are also considering comparative negligence legislation, legislation to allow the non-use of a seat belt in tort cases, and medical malpractice reform. Although nothing specific is expected from the Montana Supreme Court, it would be wise to watch them as they have developed a reputation for being pro-plaintiff, and there have been rumors about constitutional challenges to past reforms.

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## **NEBRASKA**

**SESSION DATE** 01/07/09 – 06/05/09  
**UNICAMERAL LEGISLATURE**  
**49 INDEPENDENTS**

**GOVERNOR:** Dave Heineman (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Ronald J. Sedlacek</b> Vice President & General Counsel Nebraska Chamber of Commerce & Industry P. O. Box 95128 Lincoln, Nebraska 68509 402-474-4422 Fax # 402-474-5681
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Some minor reform efforts are expected in Nebraska this year, including obesity litigation reform and some appeal bond legislation. The opposition is expected to be active, and the business community is prepared for, among other things, legislation to raise medical malpractice limits, expand liability related to mental injuries with workers' compensation, and create new causes of action.

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## NEVADA

**SESSION DATE** 02/02/09 – 06/06/09  
**HOUSE** 28 D 14 R  
**SENATE** 12 D 9 R

**GOVERNOR:** *Jim Gibbons (R)*  
**RE-ELECTION YEAR:** 2010

**Mr. Lawrence Matheis**  
**Executive Director**  
Nevada State Medical Association  
3660 Baker Lane, Suite 101  
Reno, Nevada 89509  
702-825-6788 Fax # 702-825-3202

**Mr. George Ross**  
**Director, Legislative & Government Affairs**  
Snell & Wilmer, LLP  
3883 Howard Hughes Pkwy, Suite 1100  
Las Vegas, Nevada 89169-0965  
702-784-5220 Fax # 702-784-5252

The trial bar is expected to be quite active in Nevada this year, and after last year's elections, there is small hope for reform. Their medical malpractice law, passed via initiative in 2004, is legally able to be amended this year, and the opposition is expected to attack the limits on non-economic and punitive damages. They are also expected to weaken litigation "sunshine" laws and consumer fraud law. Speaker of the House, Barbara Buckley (D), is likely to be a real obstacle to any reform efforts.

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## NEW HAMPSHIRE

**SESSION DATE** 01/07/09 – 07/03/09  
**HOUSE** 225 D 175 R  
**SENATE** 14 D 10 R

**GOVERNOR:** *John Lynch (D)*  
**RE-ELECTION YEAR:** 2012

**Mr. Palmer H. Jones**  
**Executive Vice President**  
New Hampshire Medical Society  
7 North State Street  
Concord, New Hampshire 03301  
603-224-1909 Fax # 603-226-2432

No legislative activity is expected from either the trial-bar or the reform community this year.

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## NEW JERSEY

**SESSION DATE** 01/13/09 - 01/11/10

**ASSEMBLY** 48 D 32 R

**SENATE** 23 D 17 R

**GOVERNOR:** Jon Corzine (D)

**RE-ELECTION YEAR:** 2009

<b>Mr. Michael Kornett</b> Executive Director & CEO Medical Society of New Jersey 2 Princess Road Lawrenceville, New Jersey 06648 609-896-1766 Fax # 609-896-0674	<b>Mr. Curt Macysyn</b> Executive Vice President New Jersey CALA 1675 Whitehorse - Mercerville Rd Mercerville, New Jersey 08619 609-588-0030 Fax # 609-588-0040
<b>Mr. Marcus Rayner</b> Executive Director New Jersey Lawsuit Reform Alliance 128 West State Street, 3 <sup>rd</sup> Floor Trenton, New Jersey 08625 609-392-6557 Fax: 609-392-6552	<b>Ms. Laurie Ehlbeck</b> State Director NFIB/New Jersey 150 West State Street, Suite 130 Trenton, New Jersey 08608 609-989-8777 Fax # 609-393-0781

During 2009, the trial bar is again expected to aggressively push to expand wrongful death laws to include unlimited recovery of emotional damages, similar to the bill pocket-vetoed by the governor last year. The civil justice reform community will mostly play defense, but will likely introduce legislation to limit punitive damages as well as limit bond requirements to appeal a decision.

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## NEW MEXICO

**SESSION DATE** 01/20/09 - 03/21/09

**HOUSE** 45 D 25 R

**SENATE** 27 D 15 R

**GOVERNOR:** Bill Richardson (D)

**RE-ELECTION YEAR:** 2010

<b>Dr. Beverlee J. McClure</b> President Association of Commerce & Industry of New Mexico P. O. Box 9706 Albuquerque, New Mexico 87119 505-842-0644 Fax # 505-842-0734	<b>Ms. Barbara Bruin</b> Director New Mexico Alliance for Legal Reform P. O. Box 7576 Albuquerque, New Mexico 87194 505-242-4490 bbbruin@earthlink.net
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Though the year will potentially bring additional challenges from newly elected legislators, currently there is little planned by either side in New Mexico. The reform community is expected to propose legislation to reform the false claims act, and the trial bar will probably attempt to raise limits in medical malpractice cases.

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## NEW YORK

**SESSION DATE** 01/07/09 – 01/06/10

**HOUSE** 109 D 41 R

**SENATE** 32 D 30 R

**GOVERNOR:** David Paterson (D)

**RE-ELECTION YEAR:** 2010

<b>Mr. Mike Elmendorf</b> State Director NFIB/New York One Commerce Plaza, Suite 1119 Albany, New York 12260 518-434-1262 Fax# 518-426-8799	<b>Mr. Mark Kriss</b> Executive Director New York Tort Reform Now.org Capital Station P. O. Box 7277 Albany, NY 12224 518-465-4051
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The legislative environment has quickly deteriorated in Albany as Democrats, strongly supported by personal injury lawyers, have taken control of the Senate for the first time in 40 years. With a sympathetic Senate and a House controlled by Speaker Sheldon Silver (D), who is employed as of counsel at a Manhattan personal injury firm, we expect a robust, anti-business, pro-litigation agenda that includes prejudgment interest and expansion of the state's wrongful death statute, a proposal which was stopped in the Senate last year.

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## NORTH CAROLINA

**SESSION DATE** 01/28/09 – 07/25/09

**HOUSE** 68 D 52 R

**SENATE** 30 D 20 R

**GOVERNOR:** Bev Purdue (D)

**RE-ELECTION YEAR:** 2012

<b>Mr. Gregg Thompson</b> State Director NFIB/North Carolina 150 Fayetteville Street, Suite 1110 Raleigh, North Carolina 27612 919-833-9480 Fax # 919-833-9497	<b>Mr. S. Lewis Ebert</b> President & CEO North Carolina Chambers 701 Corporate Center Drive, Suite 400 Raleigh, North Carolina 27607 919-836-1407 Fax # 919-836-1425
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Trial-bar supported politicians now control both houses of the legislature and the governor's mansion. It remains unclear, however, if and how personal injury lawyers will exercise their power as the North Carolina General Assembly does not have pre-filing of legislation. Preliminary reports from our in-state contacts lead us to believe we will not see significant affirmative reform efforts this year.

## NORTH DAKOTA

**SESSION DATE** 01/06/09 – 04/30/09  
**HOUSE** 36 D 58 R  
**SENATE** 21 D 26 R

**GOVERNOR:** John Hoeven (R)  
**RE-ELECTION YEAR:** 2012

**Mr. Bruce T. Levi**  
**Executive Director**  
**North Dakota Medical Association**  
**P. O. Box 1198**  
**Bismarck, North Dakota 58502**  
**701-223-9475 Fax # 701-223-9476**

No legislative activity reported.

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## OHIO

**SESSION DATE** 01/05/09 – 12/31/10  
**HOUSE** 53 D 46 R  
**SENATE** 12 D 21 R

**GOVERNOR:** Ted Strickland (D)  
**RE-ELECTION YEAR:** 2010

<b>Antonio C. Fiore, Esq.</b> <b>Director, Labor &amp; HR Policy</b> <b>Ohio Chamber of Commerce</b> <b>230 East Town Street</b> <b>Columbus, Ohio 43215</b> <b>614-228-4201 Fax # 614-228-6403</b>	<b>Ryan Augsburger</b> <b>Public Policy Director</b> <b>The Ohio Manufacturers' Association</b> <b>33 N. High Street, Suite 600</b> <b>Columbus, Ohio 43215</b> <b>614-224-5111</b>
<b>Mr. Tim Maglione</b> <b>Sr. Director, Government Relations</b> <b>Ohio State Medical Association</b> <b>3401 Mill Run Drive</b> <b>Hilliard, Ohio 43026</b> <b>614-527-6746 Fax# 614-527-6763</b>	<b>Mr. Ty Pine</b> <b>Legislative Director</b> <b>NFIB/OH</b> <b>10 West Broad Street</b> <b>Suite 2450</b> <b>Columbus, OH 43214</b> <b>(614) 221-4107</b>

After the 2008 elections, it seems unlikely that the trial bar will allow much reform to pass through the Ohio legislature, although they are expected to push a full agenda this year. However, last year's SB309, legislation that would rule there be no implied private rights of action in subsequent bills, will be reintroduced. PARSA, CSPA "Right to Cure," and employment lawsuit reform legislation is also expected. In the courts, Ohio has seen many constitutional challenges to past reform legislation over the last several years, though all were found to be constitutional and upheld.

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## OKLAHOMA

**SESSION DATE** 02/02/09 – 05/29/09  
**HOUSE** 40 D 61 R  
**SENATE** 22 D 26 R

**GOVERNOR:** Brad Henry (D)  
**RE-ELECTION YEAR:** 2010

Mr. Mike Seney  
Senior Vice President, Operations  
Oklahoma State Chambers  
330 N.E. 10<sup>th</sup> Street  
Oklahoma City, Oklahoma 73104  
405-235-3669 Fax # 405-235-3670

Two omnibus reform bills have already been introduced in the Oklahoma Senate, and the reform community is likely to remain active this year. However, the governor will not be friendly to reform efforts, and the trial bar will be focused on giving him good reason to veto any reform legislation that makes it to his desk. It will be a difficult fight to pass any reform bills in Oklahoma this year.

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## OREGON

**SESSION DATE** 01/12/09 – 06/30/09  
**HOUSE** 36 D 23 R  
**SENATE** 18 D 12 R

**GOVERNOR:** Ted Kulongoski (D)  
**RE-ELECTION YEAR:** 2010

Mr. Chris Shultz  
Oregon Liability Reform Coalition  
1328 NW Kearney Street  
Portland, Oregon 97209  
503-296-5732  
cshultz@ulum.com

Mr. Kevin L. Mannix  
Director  
Oregon Tort Reform Coalition  
2007 State Street  
Salem, Oregon 97301  
503-364-1913 Fax # 503-362-0513

The political environment in Oregon is less than favorable for civil justice reformers. Both houses of the legislature and Governor Ted Kulongoski (D) are aligned with the trial bar, and already we are seeing legislation that would tilt the playing field against defendants: HB 2286 would increase the availability of non-economic damages arising out of bodily harm; HB 2325 and HB 2326 are trial lawyer backed bills pertaining to automobile insurance; HB 2367 would expand the scope of the unlawful trade practices act as it pertains to children's products; and HB 2389 creates new liability for websites in relation to defamatory statements on the internet. In addition, our allies are closely monitoring bills for the following issues: medical monitoring; repeal and/or lengthening of the statute of repose in products liability actions; expansion of damages for wrongful death; limitations on pre-dispute binding arbitration; insurance bad faith; expansion of punitive damages; expansion of the Oregon Unlawful Trade Practices Act; and limitations on protective orders.

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## PENNSYLVANIA

**SESSION DATE** 01/06/09 – 01/06/10  
**HOUSE** 104 D 99 R  
**SENATE** 20 D 30 R

**GOVERNOR:** Ed Rendell (D)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Kevin Shivers</b> State Director NFIB/Pennsylvania 116 Pine Street, Suite 204 Harrisburg, Pennsylvania 17101 717-232-8582 Fax # 717-232-4098	<b>Mr. Samuel Denisco</b> Director, Government Affairs Pennsylvania Chamber of Business & Industry 417 Walnut Street Harrisburg, Pennsylvania 17101 717-720-5580 Fax # 717-230-8733
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Although there is a desire to pursue civil justice reform legislation in the Key Stone State, proponents face a major obstacle in Governor Ed Rendell (D). Though publicly Governor Rendell positions himself as evenhanded, in reality he more often than not aligns himself with the trial bar. This was evident when he vetoed joint and several liability legislation several years ago, a bill he promised to sign when he was running for his first term. Nevertheless, tort reform proponents are expected to pursue a statute of repose, innocent seller protections in products liability actions, a constitutional amendment that would allow the legislature to limit damages, and joint and several liability reform. The trial bar is expected to pursue its own affirmative legislation agenda, including attempts to expand causes of action in labor litigation (ie: third party suits in independent construction disputes) as well as diminish/water down previously enacted auto insurance legal reforms.

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## RHODE ISLAND

**SESSION DATE** 01/06/09 – 06/26/09  
**HOUSE** 69 D 6 R  
**SENATE** 33 D 4 R 1 Ind.

**GOVERNOR:** Don Carcieri (R)  
**RE-ELECTION YEAR:** 2010

<b>Mr. Paul DeRoche</b> Rhode Islanders for Lawsuit Reform Providence Chamber of Commerce 30 Exchange Terrace Providence, Rhode Island 02903 401-621-6106 Fax # 401-751-2434	<b>Mr. Stephen DeToy</b> Director of Public Affairs Rhode Island Medical Society 235 Promenade Street, Suite 500 Providence, Rhode Island 02903 401-331-3207 Fax # 401-751-8050	<b>Mr. Terrance S. Martiesian</b> State Director NFIB/Rhode Island 159 Elmgrove Avenue Providence, Rhode Island 02906 401-421-0480 Fax # 401-421-8676
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Even with an aggressive year expected from Rhode Island trial lawyers, the reform community is planning a full roster of reform legislation, including joint and several liability, obesity litigation reform, consumer protection reform, medical malpractice reform, and medical professional immunity – to include physicians and dentists. The trial bar will likely introduce much legislation from last year’s session, and continue to strongly oppose medical malpractice reforms. They also are expected to introduce deceptive trade practices legislation that would allow for class action suits, an insurance practices bill that would allow for third party bad faith claims, and expand wrongful death to allow for “value of enjoyment” damages.

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## SOUTH CAROLINA

**SESSION DATE** 01/13/09 – 06/04/09  
**HOUSE** 53 D 71 R  
**SENATE** 19 D 27 R

**GOVERNOR:** Mark Sanford (R)  
**RE-ELECTION YEAR:** 2010

<p><b>Mr. Cam Crawford</b> Executive Director South Carolina Civil Justice Coalition PO Box 12586 Columbia, SC 29211 803-771-0008 Fax # 803-771-4272</p>	<p><b>Otis B. Rawl, Jr.</b> Vice President, Public Policy South Carolina Chamber of Commerce 1201 Main Street, Suite 1810 Columbia, South Carolina 29201 803-799-4601 Fax # 803-779-6043</p>
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The business community, led by the South Carolina Civil Justice Coalition, is planning to pursue a comprehensive bill, which includes: limits on noneconomic damages; limits on punitive damages; an appeal bond limit applicable to all defendants; seat belt admissibility; consumer protection reform; class action reform, and language based on ALEC's *Private Attorney Retention Sunshine Act*. Reform proponents view this as a two-year effort and are optimistic about the chances for passage as pro-reform majorities control both houses of the legislature and Governor Sanford (R) is supportive of the civil justice reform agenda. Although trial lawyers are clearly on the defensive in the Palmetto state, we do expect them to pursue the False Claims Act.

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## SOUTH DAKOTA

**SESSION DATE** 01/13/09 - 03/30/09  
**HOUSE** 24 D 46 R  
**SENATE** 14 D 20 R 1 Ind.

**GOVERNOR:** Mike Rounds (R)  
**RE-ELECTION YEAR:** 2010

<p><b>Ms. Barbara A. Smith</b> Chief Executive Officer South Dakota State Medical Association 1323 South Minnesota Avenue Sioux Falls, South Dakota 57105 605-336-1965 Fax # 605-336-0270</p>
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No legislative activity reported.

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## TENNESSEE

**SESSION DATE** 01/13/09 – 05/29/09  
**HOUSE** 49 D 50 R  
**SENATE** 14 D 19 R

**GOVERNOR:** Phil Bredesen (D)  
**RE-ELECTION YEAR:** 2010

**Mr. Jim Brown**  
**State Director**  
**NFIB/Tennessee**  
**53 Century Blvd., Suite 110**  
**Nashville, Tennessee 37214**  
**615-872-5326 Fax # 615-874-5267**

For the first time in memory, Republicans control both houses of the legislature, and elected officials have already expressed an interest in taking up civil justice reform legislation. A group of business oriented trade associations, including the NFIB/TN and the Tennessee Chamber of Commerce, is teaming up with the medical community, to pursue a comprehensive bill. Provisions of this legislation are likely to encompass limits on noneconomic damages, limits on punitive damages, products liability reform, consumer protection act reform, and language based on ALEC's model *Private Attorney Retention Sunshine Act*.

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## TEXAS

**SESSION DAT** 01/13/09 – 06/01/09  
**HOUSE** 74 D 76 R  
**SENATE** 12 D 18 R 1 Ind.

**GOVERNOR:** Rick Perry (R)  
**RE-ELECTION YEAR:** 2010

**George Christian Scott**  
**President**  
**Texas Civil Justice League**  
**401 West 15th Street, Suite 975**  
**Austin, Texas 78701**  
**512-320-0474 Fax # 512-474-4334**

**Mr. Will Newton**  
**State Director**  
**NFIB/Texas**  
**1201 Rio Grande, Suite 100**  
**Austin, Texas 78701**  
**512-476-9847 Fax # 512-478-6422**

As in many states, Texas will see focused attempts by the trial bar to invalidate or weaken key reforms enacted in the past. Reform proponents will be defending against trial bar legislation that would weaken medical liability reforms, false claims legislation, and other bills that would seek to eliminate reforms or expand liability in the state. The reform community expects to focus mostly on defense, although they will also be pursuing reform in several key areas, including legislation based on the ALEC *Transparency in Lawsuits* legislation.

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## UTAH

**SESSION DATE** 01/19/09 – 03/04/09  
**HOUSE** 22 D 53 R  
**SENATE** 8 D 21 R

**GOVERNOR:** John M. Huntsman, Jr. (R)  
**RE-ELECTION YEAR:** 2012

<b>Mr. Val J. Bateman</b> Executive Vice President Utah Medical Association 310 East 4500 South, Suite 500 Salt Lake City, Utah 84107 801-747-3500 Fax # 801-532-1550	<b>Mr. Casey Hill</b> Executive Director Utah Civil Justice League 1927 W. Jackson Kaysville, Utah 84037 801-634-6564 Fax # 801-593-0594
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Utah's reform community will be attempting to pass amendments to comparative negligence laws so that fault is fairly distributed, as well as modifying the way prejudgment interest is determined. Though the trial bar will wage a difficult battle against it, comprehensive healthcare reform is an issue garnering more attention throughout the state, and will likely be approached during this legislative session. Currently Utah's legislative environment is much friendlier to reform than in many states across the nation.

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## VERMONT

**SESSION DATE** 01/07/09 – 05/31/09  
**HOUSE** 95 D 48 R 7 Other  
**SENATE** 23 D 7 R

**GOVERNOR:** Jim Douglas (R)  
**RE-ELECTION YEAR:** 2012

<b>Ms. Shawn S. Banfield</b> State Director NFIB/Vermont 26 State Street Montpelier, Vermont 05601 802-223-1197 Fax # 802-223-1408	<b>Ms. Sandra Dragon</b> President Associated Industries of Vermont P. O. Box 630 Montpelier, Vermont 05601 802-223-3441 Fax # 802-223-2345
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No legislative activity reported.

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## VIRGINIA

**SESSION DATE** 01/14/09 – 03/01/09  
**HOUSE** 44 D 52 R 2 Ind. 2 Vacant  
**SENATE** 21 D 19 R

**GOVERNOR:** *Tim Kaine (D)*  
**RE-ELECTION YEAR:** 2012

<b>Mr. Keith Hare</b> Director, Government Affairs Medical Society of Virginia 4205 Dover Road Richmond, Virginia 23221 804-353-2721 Fax # 804-355-6189	<b>Mr. Charles Duvall</b> Virginians for Law Reform Lindl Corporation P. O. Box 170 Richmond, Virginia 23218 804-644-7884 Fax # 804-644-7886
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No legislative activity reported.

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## WASHINGTON

**SESSION DATE** 01/12/09 – 04/26/09  
**HOUSE** 64 D 34 R  
**SENATE** 31 D 18 R

**GOVERNOR:** *Christine Gregoire*  
**RE-ELECTION YEAR:** 2012

<b>Mr. Cliff Webster</b> Chairman Washington Liability Reform Coalition 701 Fifth Avenue, Suite 3600 Seattle, Washington 98104 206-622-8020 Fax # 206-467-8215	<b>Ms. Dana Childers</b> Executive Director Washington Liability Reform Coalition 2033 Sixth Avenue, Suite 1100 Seattle, Washington 98121 425-868-2698 Fax # 425-868-8427
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The legislative climate in Washington-state is amongst the most daunting in the entire country. The Democratic-controlled legislature is dominated by trial lawyer interests and Governor Christine Gregoire (D) is a staunch ally as well. Last year, several personal injury lawyer bills nearly made it through and were only stopped due to the fantastic work of the business community, led by the Washington Liability Reform Coalition. This year, we expect the trial bar to pursue a similar agenda, which includes: increasing who can recover for wrongful death and expanding the damages available under the wrongful death statute; expanding damages available under the Consumer Protection Act as well as permitting state and local governments to file cpa claims. House Judiciary Committee Chairman Jamie Pederson (D) enjoys the support of the Washington State Trial Lawyers Association (WSTLA) and Senate Judiciary Committee Chairman Adam Kline (D) is a retired trial lawyer who fully supports the WSTLA agenda. Needless to say, the business community faces a daunting 2009 legislative year.

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## WEST VIRGINIA

**SESSION DATE** 01/14/09 – 03/14/09

**HOUSE** 79 D 21 R

**SENATE** 28 D 6 R

**GOVERNOR:** Joe Manchin III (D)

**RE-ELECTION YEAR:** 2012

<p><b>Mr. George Carenbauer</b> West Virginia Alliance for Civil Justice Steptoe &amp; Johnson 707 Virginia Street, East P. O. Box 1588 Charleston, West Virginia 25326 304-353-8130 Fax # 304-353-8180</p>	<p><b>Mr. Steve Roberts</b> West Virginia Alliance for Civil Justice West Virginia Chamber of Commerce P. O. Box 2789 Charleston, West Virginia 25330-2789 304-342-1115 Fax # 304-342-1130</p>
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The political climate is always challenging for civil justice reform proponents to advance legislative proposals. A bill may be introduced to make a technical fix to previously enacted joint and several liability reform and we also expect introduction of legislation based on ALEC's model *Private Attorney Retention Sunshine Act*. The unions and their allies are also likely to pursue legislation to repeal worker's compensation reform.

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## WISCONSIN

**SESSION DATE** 01/05/09 – 01/12/10

**HOUSE** 52 D 46 R 1 Ind.

**SENATE** 18 D 15 R

**GOVERNOR:** James Doyle (D)

**RE-ELECTION YEAR:** 2012

<p><b>Mr. Bill G. Smith</b> Chair Wisconsin Civil Justice Coalition 10 East Doty Street, Suite 519 Madison, Wisconsin 53703 608-255-6083 Fax # 608-255-4909</p>	<p><b>Mark M. Grapentine, JD</b> Senior Vice President, Government Relations State Medical Society of Wisconsin P. O. Box 1109 Madison, Wisconsin 53701 608-442-3800 Fax # 608-442-3802</p>
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We anticipate a difficult year in Wisconsin due to a trial bar that is newly energized and looking for "payback" as said by the president of their association in Wisconsin. They are expected to have a very aggressive agenda, including repeal of past reforms to joint and several, repeal of non-economic damages limits in medical malpractice cases, and weakening of the standard for awarding punitive damages. The trial bar is also indicating they may seek to rewrite the wrongful death statute, support the awarding of punitive damages in employment discrimination cases, seek to eliminate immunity provisions in the statutes, and potentially seek to codify the risk contribution theory adopted by the Wisconsin Supreme Court. Although the reform community will have legislation related to expert opinion witness reform and potentially a litigation sunshine proposal, their primary efforts will be defensive.

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## WYOMING

**SESSION DATE** 01/13/09 – 03/10/09  
**HOUSE** 19 D 41 R  
**SENATE** 7 D 23 R

**GOVERNOR:** *Dave Freudenthal (D)*  
**RE-ELECTION YEAR:** 2010

**Mr. Daniel J. Perdue**  
**President**  
**Wyoming Hospital Association**  
**P. O. Box 249**  
**Cheyenne, Wyoming 82003**  
**307-632-9344 Fax # 307-632-9347**

Little is expected from the opposition in Wyoming this year, although the reform community is planning on reintroducing legislation to abrogate the “loss of chance” doctrine established after a WY Supreme Court decision in 2003. The bill was narrowly defeated last year.

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*Editors' Notes:* This publication provides information about elections in various states as reported by our sources. The American Tort Reform Association (ATRA) does not endorse or oppose any candidate for elected office, including the Judiciary.

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*Elizabeth Emery, Assistant Director of Legislation*

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