



Tort Reform Record

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The American Tort Reform Association was organized in 1986 to bring greater fairness and efficiency to the civil justice system through public education and the enactment of state legislation. Today it represents approximately four hundred non-profit organizations, professional societies, trade associations and businesses. ATRA accomplishes its mission primarily by coordinating and supporting the activities of legislative coalitions in each of the states, by keeping its members informed of developments and mobilizing them for action, and by keeping media attention focused on the need for civil justice reform.

The Tort Reform Record is published every June and December to record the accomplishments of the latest legislative year. It includes a single-page state-by-state summary of the reforms enacted by the states since January, 1986. An issue-by-issue elaboration of what the states have done is included. If the state has amended or repealed earlier reforms this has been noted by referring to the most recent enactment. Separate documents are available on product liability, professional liability, periodic payment of awards and frivolous suit sanctions. ATRA also provides position papers and model bills on each of these issues.

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SUMMARY

Alabama	Coll Srces, Puni Evid Stand
Alaska	Jt & Sev, Non Ec Cap-\$500,000, Coll Srces, Prej Int, Puni Evid Stand, Puni Cap
Arizona	Jt & Sev, FDA Def to Puni, Coll Srces
Arkansas	
California	Jt & Sev, Puni Evid Stand
Colorado	Jt & Sev, Non Ec Cap \$250,000, Coll Srces, Puni Cap=Compen,
Connecticut	Jt & Sev, Coll Srces
Delaware	
D.C.	
Florida	Jt & Sev, Coll Srces, Puni Cap=3 x Compen
Georgia	Jt & Sev, Puni Cap=\$250,000
Hawaii	Jt & Sev, Non Ec Cap=\$375,000, Coll Srces
Idaho	Jt & Sev, Non Ec Cap=\$400,000, Coll Srces, Puni Evid Stand
Illinois	Coll Srces, No Puni in Orig Complaint
Indiana	Coll Srces, Puni Evid Stand, Puni Cap= > 3x Compen or \$50,000
Iowa	Jt & Sev, Coll Srces, Prej Int, Puni Evid Stand and Bifur Trial
Kansas	Non Ec Cap=\$250,000, Puni Cap=lesser of def ann gross income or/\$5M
Kentucky	Jt & Sev, Coll Srces
Louisiana	Jt & Sev, Prej Int
Maine	Prej Int
Maryland	Non Ec Cap=\$350,000
Massachusetts	
Michigan	Jt & Sev, Coll Srces, Prej Int
Minnesota	Jt & Sev, Non Ec Cap=\$400,000, Coll Srces, Prej Int, Puni Evid Stand & Bifur Trial
Mississippi	Jt & Sev, Puni Evid Stand, Bifur Trial, No puni if no compens
Missouri	Jt & Sev, Coll Srces, Puni=Bifur Trial
Montana	Jt & Sev, Coll Srces, Puni Evid Stand
Nebraska	Jt & Sev, Prej Int
Nevada	Jt & Sev, Puni Cap, Puni Evid Stand
New Hampshire	Jt & Sev, Puni Prohib, Prej Int
New Jersey	Jt & Sev, Puni Evid Stand, Coll Srces
New Mexico	Jt & Sev
New York	Jt & Sev, Coll Srces
North Carolina	Puni Cap=3x Econ or \$250,000 whichever > , Bifur Trial
North Dakota	Jt & Sev, Coll Srces, Puni Evid Stand, Puni cap=\$250,000, Bifur Trial
Ohio	Jt & Sev, Non Ec Cap= \$250,000/\$500,000, Coll Srces, Prej Int, Puni Cap, Bifur Trial & Puni Evid Stand
Oklahoma	Prej Int, Puni Cap=3 categories to be determined by jury.
Oregon	Jt & Sev, Non Ec Cap=\$500,000, Coll Srces, Puni Evid Stand
Pennsylvania	
Rhode Island	Prej Int
South Carolina	Puni Evid Stand
South Dakota	Jt & Sev, Puni Evid Stand
Tennessee	Jt & Sev *
Texas	Jt & Sev, Prej Int, Puni Cap
Utah	Jt & Sev, Puni Evid Stand
Vermont	Jt & Sev
Virginia	Puni Cap=\$350,000
Washington	Jt & Sev
West Virginia	
Wisconsin	Jt & Sev, Puni Evid Stand
Wyoming	Jt & Sev

* Court Decision - 1992 Tennessee Supreme Court abolished the doctrine of joint and several liability in the case of Hodges v. Toof.
Note: In addition to New Hampshire which prohibits punitive damages by statute, there are common law restrictions on punitive damages in Louisiana, Massachusetts, Nebraska and Washington. Connecticut and Michigan use them to compensate but not deter.

**ABOLITION OR MODIFICATION OF
THE RULE OF JOINT AND SEVERAL LIABILITY**

Please note that the courts of the following states do not currently apply the doctrine of joint and several liability: Alabama, Indiana, Kansas and Oklahoma.

1985

Iowa

Abolished joint liability for defendants who are less than 50% responsible

Vermont

Totally abolished joint and several liability

1986

California

Abolished for non-economic damages

Colorado

Totally abolished joint and several liability (an amendment approved in 1987 allowed joint liability when tortfeasors consciously acted in a concerted effort to commit an tortious act)

Connecticut

Modified to prohibit joint liability except where liable party's share of judgement is uncollectible (1987 legislation by opposition limited this reform to non-economic damages only)

Florida

Abolished as to non-economic damages in negligence actions

Also abolished for economic damages for defendants less at fault than plaintiff

This rule does not apply for:

- o economic damages for pollution
- o intentional torts
- o actions governed by a specific statute providing for joint and several liability
- o actions involving damages no greater than \$25,000

Hawaii

- o Abolished for low fault defendants (25% of fault or less)
- o Applies for non-economic damages only
- o Does not apply to auto, product, or environmental cases

Michigan **See 1995**

Limited joint and several (except in products liability actions and actions involving a blame-free plaintiff), held defendants severally liable except when uncollectible shares of a judgment are reallocated between solvent co-defendants according to their degree of negligence; joint and several liability was abolished for municipalities

New York

Limited joint and several liability; a defendant who is 50% or less at fault is only severally liable for non-economic damages. However, the limitation does not apply to:

- o actions in reckless disregard of rights of others
- o motor vehicle cases
- o actions involving the release of toxic substances into the environment
- o intentional torts
- o contract cases
- o products liability cases where the manufacturer could not be joined
- o construction cases and other specific actions

Utah

Totally abolished joint and several liability

Washington

Abolished except for cases in which:

- o defendants acted in concert
- o plaintiff is fault free
- o hazardous or solid waste disposal sites are involved
- o business torts are involved
- o manufacturing of generic products is involved

Wyoming

Totally abolished joint and several liability

1987

Arizona

Abolished except in cases of:

- o intentional torts
- o hazardous waste

Georgia

Limited to several only when plaintiff is assessed a portion of the fault

Idaho

Abolished except in cases of:

- o intentional torts
- o hazardous waste
- o medical and pharmaceutical products

Iowa

See 1997

Louisiana

See 1996

Missouri

Limited to several only when plaintiff is assessed a portion of the fault

Montana

Abolished joint liability for defendants who are 50% or less responsible.

Nevada

Abolished except in:

- o product cases
- o cases involving toxic wastes
- o cases involving intentional torts
- o cases where defendants acted in concert

New Jersey See 1995

New Mexico

Codified common law application of several except in:

- o cases involving intentional torts;
- o cases in which the relationship of defendants could make one defendant vicariously liable for the acts of others
- o cases involving the manufacture or sale of a defective product (In these cases the manufacturer and retailer can be held liable for their collective percentage of fault but not the fault of other defendants.)
- o situations "having sound basis in public policy"

North Dakota

Abolished except for:

- o intentional torts
- o cases in which defendants acted in concert
- o products liability cases

Ohio See 1996

Oregon See 1995

South Dakota

Limited joint for those who are 50% or less responsible -- they pay no more than twice their share

Texas - 1987 Amended - See 1995

Abolished joint liability for those who are 20% or less responsible except when:

- o plaintiff is fault free and defendant's share exceeds 10%
- o damages result from environmental pollution or hazardous waste

1988

Alaska

Joint and several liability was abolished through a ballot initiative, Proposition 2, on the November 8, 1988 ballot

Kentucky

Codified common law rule that when jury apportions fault, defendant is only liable for that share of fault

Minnesota

Limited joint and several liability for those who are 15% or less responsible -- they pay no more than four times their share

1989

Mississippi

Modified joint and several liability -- by applying the doctrine of joint and several only to the extent necessary for the injured party to receive 50% of his recoverable damages

New Hampshire

Abolished joint and several liability for defendants who are less than 50% responsible

1991

Nebraska

Modified the doctrine by:

- o replacing current slight-gross negligence rule with a 50/50 rule in which the plaintiff wins if the plaintiff's responsibility is less than the responsibility of all the defendants
- o eliminating joint and several liability for non-economic damages for all defendants in all types of cases

1995

Michigan

Abolished joint liability of fault except for:

- o employers vicarious liability; and
- o in medical malpractice cases where the plaintiff is determined not to have a percentage of fault, defendants are jointly liable.

New Jersey

Abolished for defendants less than 60% at fault except for:

- o toxic torts

Oregon

Abolished joint liability except for:

cases in which one of the defendants within one year of the final judgment is determined to be insolvent. In those cases, a defendant less than 20% at fault would be liable for no more than 2 times their original exposure and defendant more than 20% liable would be liable for the full amount of damages.

Texas

Abolished joint liability for defendants less than 51% at fault

Wisconsin

Abolished joint liability for defendants found to be less than 51% at fault

1996

Louisiana

Totally abolished joint and several liability

Ohio

Abolished joint and several liability except for defendants who are more than 50% at fault who would then be jointly liable for economic damages only.

1997

Iowa

Amends the 1987 statute on the doctrine of joint liability to provide that defendants fifty percent or more at fault are jointly liable for economic damages only. (Note: defendants less than fifty percent at fault are not jointly liable for *any* damages.)

LIMITATIONS ON AWARDS OF NON-ECONOMIC DAMAGES

1986

Alaska **See 1997**

Colorado

\$250,000 cap (unless court finds justification by "clear and convincing evidence" for a larger award which cannot exceed \$500,000)

Hawaii

\$375,000 cap but cap applies only to actual physical pain and suffering; other non-economic damages have no limit

Maryland

\$500,000 cap

Minnesota

\$400,000 cap on all awards based on loss of consortium, emotional distress, or embarrassment (not pain and suffering)

1987

Idaho

\$400,000 cap -- adjusted for annual wage increase

Kansas

\$250,000 cap on pain and suffering (not other non-economic losses)

Oregon

\$500,000 cap on non-economic damages

1996

Ohio

In all civil actions, limits non economic damages to the greater of \$250,000 or three times economic damages to a maximum of \$500,000 unless; there is (a) permanent and severe physical deformity, loss of use of limb or loss of a major bodily organ system; or (b) permanent physical functional injury that permanently prevents the injured person from being able to independently care for herself or himself and perform life sustaining activities.

If plaintiff establishes criteria set forth above, noneconomic damages are limited to the greater of \$1 million or \$35,000 times the number of years remaining in the plaintiff's expected life.

1997

Alaska

\$400,000 cap on noneconomic damages or \$8,000 times plaintiff's life expectancy, whichever is greater unless the plaintiff suffers severe permanent physical impairment or severe disfigurement. In such cases, noneconomic damages are limited to the greater of \$1 million or \$25,000 times the plaintiff's life expectancy.

REDUCTION OF COMPENSATORY AWARDS

BY COLLATERAL SOURCES

1986

Alaska

Admissible as evidence and offset with broad exclusions

Colorado

Admissible as evidence and offset with broad exclusions

Connecticut

Admissible as evidence and offset with broad exclusions

Florida

Mandatory offset with broad exclusions

Hawaii

- o Provided for payment of valid liens (arising out of claim for payment made from collateral sources for cost and expenses arising out of injury) from special damages recovered
- o Prevented double recoveries by allowing subrogation liens by insurance companies or other sources; third parties are allowed to file a lien and collect the benefits paid to the plaintiff from the plaintiff's award; the amount of damages paid by the defendant to the plaintiff is not affected

Illinois

- o Only collateral sources for benefits over \$25,000 can be offset
- o Offset cannot reduce judgement by more than 50%

Indiana

Admissible as evidence with certain exclusions; court may reduce awards at its discretion; jury may be instructed to disregard tax consequences of its verdict

Michigan

Admissible after the verdict and before judgment is entered; courts can offset awards but cannot reduce the plaintiff's damages by more than amount awarded for economic damages

Minnesota

Admissible as evidence only for the court's review; offset is provided for but collateral sources having rights of subrogation are excluded

New York

Mandatory offset

1987

Alabama

Collateral sources allowed as evidence -- reduction not mandated

Iowa

Collateral sources allowed as evidence -- reduction not mandated

Missouri

Collateral sources allowed as evidence but if used as evidence, defendant waives the right to a credit against the judgment for that amount

Montana

Collateral source rule abolished -- reimbursement from collateral source is admissible in evidence -- unless the source of reimbursement has a subrogation right under state or federal law, court is required to offset damages over \$50,000

New Jersey

Mandatory offset of collateral source benefits other than workers' compensation and life insurance benefits

North Dakota

Mandatory offset of collateral source benefits other than life insurance or insurance purchased by recovering party

Ohio

See 1996

Mandatory offset of any benefits received less the total of any costs paid for the benefit

Oregon

Allowed a judge to reduce awards for collateral sources

Excludes:

- o life insurance and other death benefits
- o benefits for which plaintiff has paid premiums
- o retirement, disability, and pension plan benefits
- o federal social security benefits

1988

Kentucky

The jury must be advised of collateral source payments and subrogation rights of collateral payers

1990

Idaho

Allowed the court to receive evidence of collateral source payments and reduce jury awards to the extent that they include double recoveries from sources other than federal benefits, life insurance or contractual subrogation rights.

1993

Arizona

Extended the existing collateral source legislation from medical malpractice issues to other forms of liability litigation (under this legislative approach, a jury would not be bound to deduct the amounts paid under a collateral source provision, but would be free to consider it in determining fair compensation for the injured party)

1996

Ohio

Allows collateral source payments, including workers' compensation benefits, to be submitted as evidence to the trier of fact, but only if there is no right of subrogation attached or the plaintiff has not paid a premium for the insurance.

PROHIBITION OF, OR LIMITS, ON PREJUDGMENT INTEREST

1986

Michigan

Prohibited prejudgment interest on awards for future damages

Minnesota

Prohibited prejudgment interest on awards for future damages

Nebraska

Reduced rate of interest to 1% above the rate on U.S. Treasury Bill. Offer of settlement provision allows the award of prejudgment interest for unreasonable failure to settle

Oklahoma

- o Prohibited prejudgment interest on punitive damage awards
- o Rate of interest reduced to 4% above the rate on U.S. Treasury Bill

1987

Iowa

See 1997

Repealed prejudgment interest for future damages (other interest accrues from the date of commencement of the actions at a rate based on U.S. Treasury Bill).

Louisiana

Tied prejudgment interest to the prime rate plus 1% with a floor of 7% and a cap of 14%

Rhode Island

Tied prejudgment interest to U.S. Treasury Bill rate--accrues from date suit is filed

Texas

Limited the period during which prejudgment interest may accrue if the defendant has made an offer to settle

1988

Maine

Tied prejudgment interest and post judgment interest rate to U.S. Treasury Bill rate

1995

New Hampshire

Tied the prejudgment interest to the U. S. Treasury Bill rate plus 2%

1996

Ohio

Tied prejudgment interest to 50% of the "federal short-term rate." Interest accrues from date defendant received notice of cause of action. Repealed prejudgment interest for future damages

Prejudgment Interest

1997

Alaska

Tied interest rate to the 12th Federal Reserve District's Discount Rate plus 3%. Repealed prejudgment interest for future damages and punitive damages

Iowa

Tied interest rate to U.S. Treasury Rate plus 2%

REFORM OF THE LAW OF PUNITIVE DAMAGES

1986

Alaska **See 1997**

Requires "clear and convincing" evidence

Colorado

Punitive award may exceed compensatory award; court may reduce if deterrence achieved without award, but also may increase to three times compensatory if misbehavior continues during trial

Florida

Punitive award may not exceed three times compensatories unless plaintiff can demonstrate by "clear and convincing" evidence that a higher award would not be excessive

Illinois

Plaintiffs no longer able to plead punitives in original complaint; subsequent motion to add punitive claim must show at hearing reasonable chance that the plaintiff will win punitive award at trial

Iowa

Punitive damages may only be awarded where "willful and wanton disregard for the rights and safety of another" is proven; 75% or more of the award goes to State Civil Reparations Trust Fund (in 1987 the evidence standard was elevated to "clear, convincing, and satisfactory" evidence)

New Hampshire

Punitive damages prohibited

South Dakota

Requires "clear and convincing" evidence of "willful, wanton, or malicious" conduct

1987

Alabama

Requires proof of "wanton" conduct by "clear and convincing" evidence

California

Requires "clear and convincing" evidence of oppression, fraud, or malice; the trial is bifurcated allowing evidence of defendants' financial conditions only after a finding of liability

Georgia

\$250,000 cap -- product liability actions are excluded from the cap

Idaho

Requires preponderance of evidence of "oppressive, fraudulent, wanton, malicious or outrageous" conduct

Missouri

Bifurcated trial for punitive - The jury stills sets the amount for punitive damages if in the 1st stage they find defendant liable for punitives; defendant's net worth is admissible only in punitive section of trial; 50% of the punitive damage award goes to state fund; multiple punitive awards

prohibited under certain conditions

Montana See 1997

- o Requires "clear and convincing" evidence of "actual fraud" or "actual malice"
- o Bifurcates the trial with evidence of defendant's net worth only admissible in second section of trial
- o Requires judge to review all punitive awards and issue an opinion on whether he increased, decreased or let stand the punitive award

New Jersey Amended See 1995

- o Requires evidence of "actual malice" or "wanton and willful disregard" of the rights of others
- o Provides for a bifurcated trial
- o Provides for an FDA government standards defense to punitives
- o Excludes environmental torts

North Dakota See also 1993, 1995 & 1997

- o Punitives not allowed in original complaint
- o Plaintiff has to show prima facie evidence for claim for punitives
- o Plaintiff must show "oppression, fraud or malice"

Ohio See 1996

Requires "clear and convincing" evidence; judge sets amounts; punitives cannot be awarded unless plaintiff has proved "actual damages" were sustained because of defendant's "malice, aggravated or egregious fraud, oppression or insult"; provided a government standard defense for FDA approved drugs

Oregon

- o Requires "clear and convincing" evidence
- o Provides an FDA defense to punitives

Texas See 1995

Virginia

\$350,000 cap

1988

Kansas

Caps punitive awards at lesser of defendant's annual gross income or \$5 million (the 1992 legislature amended this statute to allow a judge who felt annual gross income was not a sufficient deterrent, to look at 50% of the defendant's net assets, awarding the lesser of that amount or \$5 million); (Note: 1987 legislation had required the court, not the jury, to determine the amount of the punitive damages award and required "clear and convincing" evidence)

South Carolina

Requires "clear and convincing" evidence for punitives

1989

Arizona

Provides a government standard defense for FDA approved drugs and devices

Nevada

- o Limits punitive damage awards to \$300,000 in cases in which compensatory damages are less than \$100,000 and to three times the amount of compensatory damages in cases of \$100,000 or more (Note: limits do not apply in cases against a manufacturer, distributor, or seller of a defective product; an insurer who acts in bad faith; a person violating housing discrimination laws; a person involved in a case for damages caused by toxic, radioactive or hazardous waste; a person for defamation)
- o Requires a higher standard of liability, "oppression, fraud or malice";
- o Requires "clear and convincing evidence";
- o Bifurcates the trial allowing financial evidence only after a finding of liability

Utah

Provided for a higher standard of liability (from "reckless" to "knowing and reckless"), a government standard defense for FDA approved drugs, bifurcation of trials involving punitives, a "clear and convincing" evidence standard and the payment of 50% of punitive damage awards over \$20,000 to the state fund

1990

Minnesota

(1986 legislation prohibited punitive claims in the original complaint)

- o Raises the standard of conduct for punitive damages from the current "willful indifference" to a standard of "deliberate disregard;"
- o Establishes a defendant's right to insist on a bifurcated trial when a claim includes punitive damages
- o Provides trial and appellate judges the power to review all punitive damage awards

1992

New York

Requires that 20% of all punitive damages be paid to the New York State General Fund

1993

Mississippi

- o Establishes a clear and convincing evidence standard for the award of punitive damages
- o Requires bifurcation of trials on the issue of punitive damages
- o Prohibits the award of punitive damages in the absence of compensatory awards
- o Prohibits the award of punitive damages against an innocent seller
- o Lays down factors for the jury to consider when determining the amount of a punitive damages award

North Dakota

- o Limits punitive damages to the greater of \$250,000 or two times compensatory damages
- o Requires bifurcated trials on the issue of punitive damages and
- o Prohibits a defendant's financial worth from being admitted in the punitive damages portion of a trial

1995

Indiana

- o Limits punitive damages to the greater of three times compensatory damages or \$50,000 whichever is greater
- o Redirects 75% of punitive awards to a state fund.

New Jersey

- o Limits punitive damage awards to five times compensatory damages or \$350,000, whichever is greater
- o Provides exemptions including: bias crimes, discrimination, AIDS testing disclosure, sexual abuse, and injuries caused by drunk drivers

North Carolina

- o Limits punitive awards to three times compensatory damages or \$250,000 whichever is greater while providing an exception for harms caused by driving while impaired;
- o Requires "clear and convincing" evidence that the defendant is liable for compensatory damages and engaged in fraud, malice, willful or wanton conduct; and
- o Provides for a bifurcated trial on motion of defendant.

North Dakota

(1987 legislation prohibited punitive damages in original complaint; 1993 legislation limited damages)

- o Requires "clear and convincing" evidence that the defendant has been guilty of oppression, fraud, or *actual malice*.
- o Provides for an FDA government standards defense to punitives.

Oklahoma

(1986 legislation had limited punitive award to compensatory award)

Codifies factors which the jury must consider in awarding punitive damages, then provides three separate "categories" for limiting punitive awards. When the jury finds by clear and convincing evidence that the defendant:

- o Acted in "reckless disregard for the rights of others", the award is limited to \$100,000 or actual damages awarded, whichever is greater;
- o Acted intentionally and with malice, the limit is either \$500,000; two times actual damages awarded; or the increased financial benefit derived by the defendant or insurer as a direct result of the conduct causing injury; and
- o if the court finds evidence *beyond a reasonable doubt* that the defendant acted intentionally and with malice in conduct life-threatening to humans, the cap is lifted.

Oregon

(1987 legislation provided an FDA defense)

- o Provides that 40% of the punitive award is paid to the prevailing party and 60% is paid to a state fund, and no more than 20% of the award may be paid to the attorney of the prevailing party;
- o Imposes a "clear and convincing" evidence standard to prove defendant "acted with malice or has shown a reckless and outrageous indifference to a highly unreasonable risk of harm and has acted with a conscious indifference to the health, safety and welfare of others";
- o Provides court review of jury awarded punitive damages;
- o Prohibits punitive damages in the original complaint. A prima facie case for liability is required before the complaint can be amended to include a punitive damages claim

Texas

- o Limits punitive damage awards to the greater of \$200,000 or two times economic damages plus non-economic damages up to \$750,000; and
- o Requires "clear and convincing" evidence to prove *malice* defined as the "conscious indifference to the rights, safety, or welfare of others."

Wisconsin

Allows punitive damages only where defendants act "maliciously or in intentional disregard of the rights of the plaintiff."

1996

Ohio

- o Limits amount of punitive damages recoverable from all parties except large employers to the lesser of three times compensatory damages or \$100,000;
- o Limits the amount of punitive damages recoverable from large employers (more than 25 employees on a full time permanent basis) to the greater of three times the amount of compensatory damages or \$250,000;
- o Provides that any party may request a bifurcated trial; and
- o Limits multiple punitive damage awards based on the same act or course of conduct; and expands governmental standards defense to include non-drug manufacturers, and manufacturers of over-the-counter drugs and medical devices.

1997

Alaska

- o Limits amount of punitive damages to the greater of three times compensatory damages or \$500,000; except
 - a) When the defendant's action is motivated by financial gain in which case punitive damages are limited to the greater of four times compensatory damages; four times the aggregate amount of financial gain; or \$7,000,000.
 - b) In an unlawful employment practices suit, punitive damages are limited to \$200,000 if the employer has less than 100 employees in the state; \$300,000 if the employer has more than 100 but less than 200 employees in the state; \$400,000 if the employer has more than 200 but less than 500 employees in the state; and \$500,000 if the employer has more than 500 employees in the state.
- o Establishes a clear and convincing evidence standard to prove conduct was "outrageous" or evidenced "reckless indifference."
- o Provides for a bifurcated trial when punitive damages are awarded.

Montana

- o Allows the court to assess jury costs if a party's case is frivolous or maintained for purposes of harassment.

North Dakota

- o Requires a preponderance of the evidence to prove oppression, fraud, or actual malice before a moving party may amend pleadings and claim punitive damages.