

Florida moving in right direction to end decades of lawsuit abuse by billboard trial lawyers | Opinion

By Mark Wilson and Harold Kim
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Florida is finally moving in the right direction in improving the state's legal climate and decades of lawsuit abuse. Gov. Ron DeSantis' three recent appointments to the Florida Supreme Court have transformed the high court, and an empowered state legislature is more willing to take on billboard trial lawyers. (ABOVE) DeSantis with former federal prosecutor and Miami appeals court judge Robert Luck, right, who was appointed to the Florida Supreme Court earlier this year. (Lynne Sladky/AP)

Let's rip the Band-Aid off first: The newly released *2019 Lawsuit Climate Survey: Ranking the States*, by the U.S. Chamber Institute for Legal Reform, ranks the Florida 46 out of 50 — remaining unchanged from the last survey in 2017. Despite its low ranking, recent reforms and changes show sunnier days are ahead for Florida's lawsuit climate.

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While these improvements aren't reflected in this year's national ranking due to survey timing, the groundwork laid this year will no doubt yield improvements over the next few years.

What Florida's poor ranking does reflect is decades of lawsuit abuse by billboard trial lawyers. Previously, Florida's legislature was reluctant to pass reforms because of an activist state Supreme Court that routinely overturned legislative reforms. Plaintiffs' lawyers used that to their advantage to get massive paydays through excessive litigation, at the expense of Florida families, small businesses and job creators.

Change is already happening. In May, the Supreme Court rightly adopted a rule called the *Daubert* standard to keep junk science out of the courtroom. The rule was already in place in 40 other states and the federal courts, giving a huge win to free enterprise that had faced an onslaught of litigation based on faulty science.

The Legislature also showed it's ready to turn things around, and the governor has been ready with the pen to sign legal reforms into law. For the past six years, homeowners have been dealing with increasing property insurance rates partly due to trial lawyers filing get-rich-quick lawsuits. This year, the Legislature finally passed a bipartisan consumer protection measure to

end the abusive assignment of benefits (AOB) practice, which DeSantis signed into law. Stopping the fraud-ridden AOB auto glass practice is next in line for reform.

The Legislature also passed much-needed reforms to the “dangerous instrumentality doctrine,” a Florida-only, court-created doctrine that holds vehicle owners liable if they loan their vehicle to someone else who gets into an accident. Finally, lawmakers rejected a proposed biometric privacy law that would have threatened companies with expensive no-injury class actions. Similar to a law passed in Illinois, Florida’s business community will watch closely because trial lawyers are sure to try again next session.

Lawmakers should keep the momentum going next. The state’s lawsuit climate costs Floridians, too. A study released last fall by ILR found that every Florida household’s share of its tort system was \$4,442 in 2016. That’s \$1,100 a year more than the national average.

Ranking the States surveyed more than 1,300 general counsels, senior attorneys, and other executives at major U.S. companies. Thirteen percent of those surveyed said Miami-Dade County, a trial lawyer haven, has the worst litigation environment in the entire country. Even more concerning is that 89 percent of executives surveyed said a state’s lawsuit climate is becoming a more significant factor when deciding where to locate or grow additional jobs.

There is optimism for turning around Florida’s broken lawsuit system, but more work must be done. Keeping the momentum going is essential to tackle issues like municipality litigation and “truth in damages.”

As Florida competes to be a top 10 global economy by 2030, improving its legal climate is essential. The Florida Chamber of Commerce is leading the charge to unite Florida’s business community, and together with the Institute for Legal Reform, will continue efforts to reduce out-of-control litigation while protecting consumers and job creators alike.

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