



## MEMORANDUM

January 19, 2026

**TO:** Minnesota Homeowner and Commercial Property Insurance Task Force

**FR:** Minnesota Association for Justice

The Minnesota Association for Justice (MAJ), a professional association established in 1954, is dedicated to protecting the constitutional rights of Minnesotans. Our attorney members represent plaintiffs in civil litigation who have been wrongfully injured by others or have been wrongly denied the benefits they are entitled to under an insurance policy or other benefit programs. We are proud of the work of the association and proudly make no excuses for protecting access to justice in the court room or the Capitol.

This task force has spent time discussing a national insurance industry agenda making it harder to seek justice in cases big and small, contrary to its charge to assess the real problems facing consumers. The talking points and misinformation presented to the task force on issues like litigation finance, a fictitious “tort tax” or even verifiable Minnesota Supreme Court case filings have not been giving proper scrutiny, in part because there is no seat at this task force directly for plaintiff or consumer attorneys.

The last hearing discussed the push from the American Property Casualty Insurance Association (APCIA) to restrict law firm financing and consumer lending. Backing up that push for this proposal was the notion of a “tort tax”, nuclear verdicts, and that case filings were ramping up. Beyond the sound bites, no information has been presented to the task force that costs will be reduced, even in the future, by adopting any of these litigation proposals. MAJ offers the following observations on those issues.

### **LITIGATION FINANCE**

This task force has not received information about commercial law firm financing or consumer litigation loans in Minnesota. First and foremost, there is nothing in the record that indicates these loans have anything to do with homeowner or commercial property insurance claims. In reality, what the record does show is that those claims represent just 2.1% of paid losses for homeowner insurance claims in 2023 according to the Insurance Information Institute.

[Facts + Statistics: Homeowners and renters insurance | III](#)

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Before there is a rush to restrict legal financing, if the task force wants to address the topic it must understand what it is and where it's used in Minnesota or elsewhere. This is a link to a couple good primers on the issue that appeared last month in the insurance publication *Carrier Management* and *The Daily Journal* that MAJ has submitted to the task force.

<https://www.carriermanagement.com/features/2025/12/09/282156.htm>

<https://www.dailyjournal.com/articles/386526-without-litigation-funding-justice-falters>

If we attempt to understand the types of cases and circumstances where financing is being utilized, it becomes even clearer that this recommendation will have zero impact on reducing homeowner insurance costs.

Legal lenders do not control a lawyer's advice, or a client's decision about their cases. Attorneys have an ethical obligation to maintain independence of professional judgment pursuant to Rule 5.4 of the Rules of Professional Conduct, and it would be unethical for a lawyer to permit a legal lender to influence the lawyer's professional judgment and handling of a client's case. There is simply no evidence to make this claim.

The task force has heard that the insurance reforms passed in Florida have led to reduced premiums. It is important to note that the insurance market is seeing reduced rates across the country and that Florida has not adopted any reforms on legal lending.

Florida Lawmakers Ready for Another Shot at Litigation Funding Limits

<https://www.insurancejournal.com/news/southeast/2026/01/13/853997.htm>

## **"THE TORT TAX"**

Let's be clear, there is no "tort tax" just like there is no "excessive insurance CEO compensation tax." The term is an insurance industry public relations campaign that has no relation to the actual costs of tort claims.

The long-debunked term has been controversial since it was first created in an insurance industry paid study by Tillinghast (an insurance industry consulting firm) in 1985. The faulty methodology used in creating the term, including calculating all liability insurance premiums paid, estimates of self-insurance costs, all insurance industry administrative overhead and insurance company profits as tort cost.

[Fact Sheet: The "Tort Tax" Scam | centerjd.org](#)

## **MINNESOTA COURT CASE FILINGS**

A claim has been made that case filings have skyrocketed since the pandemic ended. This claim, like the others above, is simply untrue and unsupported by any evidence. MAJ submitted the case filing statistics prepared by the Minnesota

# JUSTICE

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Supreme Court on October 10, 2025 covering filings between 2018 through 2024. Personal injury cases filed in 2018 were 2,402 and in 2024 case filings were **down** to 1,859 – a decline of 23%.

Cases have gone down since the pandemic, not skyrocketed.

[Civil Case Statistics Trends 2018 - 2024.pdf](#)

## NUCLEAR VERDICTS

Another insurance industry public relations ploy is the “rise of nuclear verdicts” to push restrictive laws for average consumers. The corporate public relations firm Marathon Strategies was paid to create a report on verdicts over \$20 million between 2009 and 2024: *Analysis of Marathon Strategies’ “Nuclear Verdicts”<sup>1</sup> - Minnesota*. There are six Minnesota cases listed in the report covering that period. None deal with homeowner or commercial property claims and only one is a personal injury wrongful death case of a young mother.

Many of the cases in the report are business-to-business disputes. MAJ doesn’t embrace the Marathon report or its conclusions, but looking at the insurance industry’s own data its clear the nuclear verdict talking point doesn’t match the reality in Minnesota. Moreover, it insults the intelligence of our citizen jurors, who have carefully weighed the evidence and testimony to reach a just outcome based on the facts. While those outcomes may not always meet the insurance industry’s desired outcomes, they represent justice in the respective case, just as when a jury returns a defense verdict.

Here are the six Minnesota cases:

### 1. Kelley v. BMO Harris Bank N.A. – \$564 million

#### Reality: 2012 bankruptcy case, reversed

The trustee for a bankrupt Ponzi scheme (PCI) won a \$1.1+ billion judgment against BMO Harris Bank for allegedly helping the fraud. But the Eighth Circuit ruled the trustee couldn’t sue because the company itself was deeply involved in the fraud (in pari delicto). The judgment was reversed, and BMO won; the U.S. Supreme Court declined to review the case.<sup>2</sup>

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<sup>1</sup> Corporate Verdicts Go Thermonuclear,” Marathon Strategies, 2024, <https://marathonstrategies.com/corporate-verdicts-go-thermonuclear-data/>.

<sup>2</sup> Reversal of \$1+ Billion Judgment – Kelley v. BMO Harris Bank N.A.. California Lawyers Association, <https://calawyers.org/business-law/reversal-of-1-billion-judgment-kelley-v-bmo-harris-bank-n-a/>.



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## **2. United States ex rel. Fesenmaier v. Cameron-Ehlen Group, Inc. (Precision Lens) – \$43 million**

**Reality: 2023 U.S. government case, eventually settled for \$12 million**

The U.S. Department of Justice sued Precision Lens on the basis of whistleblower claims that the corporation was paying kickbacks to ophthalmologists in violation of federal law.<sup>3</sup>

## **3. Minneapolis Foundation v. Wells Fargo – \$30.3 million**

**Reality: 2008 case, four non-profits against a bank**

The plaintiffs — the Minnesota Workers' Compensation Reinsurance Association, the Minneapolis Foundation, the Minnesota Medical Foundation, and the Robins, Kaplan, Miller & Ciresi Foundation for Children — sued Wells Fargo in 2008, claiming the bank failed to disclose the deteriorating value of the investments until it was too late. According to the organizations, the bank promised to invest their funds in safe, liquid instruments, primarily money market funds. But instead, the plaintiffs argued, the funds were invested in riskier assets such as structured-investment vehicles and mortgage-backed securities.<sup>4</sup>

## **4. Keller v. Relco – \$23.78 million**

**Reality: 2014 trade secrets case**

Relco, a dairy processing company, sued a former consultant for allegedly violating a non-compete agreement. The court ruled against the company. Unclear whether damages were ever awarded.

## **5. Spectralytics v. Cordis Corp – \$22.35 million**

**Reality: 2009 business-to-business patent infringement case**

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<sup>3</sup> Precision Lens Agrees to Pay \$12 Million to the United States for Kickbacks to Doctors in Violation of the False Claims Act, U.S. Department of Justice, July 25, 2024, <https://www.justice.gov/usao-mn/pr/precision-lens-agrees-pay-12-million-united-states-kickbacks-doctors-violation-false>.

<sup>4</sup> Wells Fargo Ordered to Pay \$30 Million to Four Minnesota Nonprofits, Candid, June 4, 2010, [https://philanthropynewsdigest.org/news/wells-fargo-ordered-to-pay-30-million-to-four-minnesota-nonprofits#:~:text=Wells%20Fargo%20Ordered%20to%20Pay%20\\$30%20Million,charitable%20foundations%20sued%20Wells%20Fargo%20in%202008%2C](https://philanthropynewsdigest.org/news/wells-fargo-ordered-to-pay-30-million-to-four-minnesota-nonprofits#:~:text=Wells%20Fargo%20Ordered%20to%20Pay%20$30%20Million,charitable%20foundations%20sued%20Wells%20Fargo%20in%202008%2C).



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Spectralytics sued Cordis alleging patent infringement on laser cutting technology.<sup>5</sup>

## 6. Bermingham v Eid – \$20.6 million

### Reality: 2017 medical malpractice case

Nicole Bermingham died in 2013 soon after giving birth when emergency room physicians ignored lab test showing she had sepsis.<sup>6</sup>

[Nuclear-Verdicts-Report-2025.pdf](#)

## CONCLUSION

MAJ has been encouraging this task force to look at the genuine problems policyholders face having their legitimate claims paid and examine facts about insurance industry proposals that will either make it more difficult to see justice or tip the scales further in favor of defendants and their insurance companies. As it relates to homeowners insurance it is clear that weather and storm damage are the factors overwhelmingly driving increased costs, in addition to record insurance company profit-taking.

There are a number of suggestions that have been submitted that would make the claim handling process more fair for consumers, including faster resolution of claims disputes over property values, compensating policyholders for all losses sustained by wrongful delays, and requiring more transparency in rate setting on property insurance.

We stand ready to work with legislators and the industry to lower premiums for consumers and get their claims paid promptly. In turn, we will not abide the insurance industry's desire to look past the evidence and the reality facing consumers to misrepresent the record to the task force.

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<sup>5</sup> Spectralytics v. Cordis Corp, 2009, <https://www.cafc.uscourts.gov/opinions-orders/09-1564.pdf>.

<sup>6</sup> Twin Cities jury awards \$20M in malpractice case for woman who died after giving birth, Minnesota Star Tribune, August 29, 2017, <https://www.startribune.com/twin-cities-jury-awards-20m-in-malpractice-case-for-woman-who-died-after-giving-birth/442132653>.



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