



PA COALITION FOR  
CIVIL JUSTICE  
REFORM

# Progress Amid Challenge: Advancing our Agenda in the Face of a Pandemic

PENNSYLVANIA COALITION FOR CIVIL  
JUSTICE REFORM 2020 ANNUAL REPORT





## MESSAGE FROM THE EXECUTIVE DIRECTOR

The Pennsylvania Coalition for Civil Justice Reform (PCCJR) rose to the challenge of 2020 and had its most successful year yet despite the Covid-19 pandemic. Like everyone, PCCJR had to adopt a new way to conduct business, communicate with elected officials, and push forward with our agenda. While the inability to have in-person access to the Pennsylvania Capitol for much of the year proved challenging, PCCJR worked around these difficulties to achieve great success in 2020.

The Covid-19 pandemic hit our medical providers and practitioners hard. Healthcare workers faced unprecedented dangers and challenges on the front lines while facing increased exposure for liability. Businesses retooled facilities to produce sanitizer and personal protective equipment to meet the severe shortages faced by healthcare workers. Businesses, colleges and universities, schools, child-care facilities, local governments, and others were suddenly facing a new kind of liability resulting from Covid-19 exposure and the lawyers trying to cash in on the suffering induced by the pandemic.

As a result, PCCJR went to work developing legislation to provide targeted, sensible protections providing safe harbor for those following healthcare rules and procedures. Our collective hard work resulted in the passage of House Bill 1737 late in the legislative session. Unfortunately, Pennsylvania's governor saw fit to protect his plaintiffs' lawyer allies' interests over the needs of the general public and vetoed this much needed legislation.

Outside of Covid-19-related issues, PCCJR fended-off additional attempts to expand liability exposure. In particular, we saw a serious effort in the House to pass a state False Claims Act.

This legislation unfairly targets those contracting with the commonwealth by imposing treble damages and onerous penalties for billing mistakes or minor wrongdoing that is less than fraudulent. The plaintiffs' bar's coordinated effort to change court rules for venue in medical liability cases continued in 2020. For the third year running, PCCJR continued to lead the charge in opposition to this measure. This year PCCJR will continue to challenge efforts to return venue shopping to medical liability cases.

PCCJR formalized its Amicus Brief program in 2020 and took the lead in filing amicus briefs in five cases important to our membership. Amicus briefs allow PCCJR to advocate in the courts in addition to the legislature.

PCCJR also took its message directly to Pennsylvania residents. Residents in several House and Senate districts learned about their legislator's positions on bills that were harmful to the betterment of Pennsylvania due to the imposition of increased liability exposure. This extensive social media campaign was seen over 5.9 million times across Pennsylvania and gave residents the opportunity to either thank legislators for their vote or ask them to reconsider a position.

Finally, PCCJR unveiled a new, user-friendly website to keep you better informed and make access to information easier. Please visit us at [www.paforciviljusticereform.org](http://www.paforciviljusticereform.org).

PCCJR expects the issues noted here will be with us again in 2021. With the Pennsylvania Supreme Court and Philadelphia Court of Common Pleas being named the Number 1 Judicial Hellhole in America, we have our work cut out for us. Undoubtedly new challenges will arise. PCCJR will be your voice and will lead efforts to protect against lawsuit abuse and all of its ramifications.

**Curt Schroder**  
Executive Director



In Pennsylvania, the total costs and compensation of lawsuits in 2016 was **\$18.4 billion**.

(Source: Institute for Legal Reform Costs and Compensation of the U.S. Tort System study, October 2018.)



### Pa Has The 5th Most Expensive Civil Court System in the Country

- **\$18.4 billion** – total cost of Pennsylvania's tort system
- **\$1 billion** – lawsuit costs attributed to medical malpractice lawsuits in PA
- **2.5%** – percentage of Pennsylvania's GDP represented by lawsuits

(Source: Institute for Legal Reform Costs and Compensation of the U.S. Tort System study, October 2018.)

# 2020: Advancing Our Agenda in the Face of a Pandemic



**Total Tort Costs per Household in PA: \$3,721.00.** This places Pennsylvania 13th in the nation in tort costs per household.

*(Source: Institute for Legal Reform Costs and Compensation of the U.S. Tort System study, October 2018.)*



**Medical Malpractice accounted for \$1.044 billion of Pennsylvania's total tort costs in 2016.** Medical malpractice plaintiffs received \$218 million or only 21% of the cost of malpractice cases in PA.

*(Source: Institute for Legal Reform Costs and Compensation of the U.S. Tort System study, October 2018.)*

## Tackling the Liability Threat Posed by COVID-19

The global pandemic presented PCCJR and our members with challenges that no one saw coming. Working closely with our members, PCCJR went to work to develop legislation in response to the unique liability challenges collectively faced by business, healthcare, and others. PCCJR successfully developed a comprehensive bill to provide targeted, temporary relief from the threat of the inevitable Covid-19-related lawsuits. As a result, the Senate Judiciary Committee Chair, Senator Lisa Baker, introduced Senate Bill 1239. This bill provided safe harbor liability protections for healthcare, businesses, personal protection equipment manufacturers, schools, colleges and universities, childcare centers, and local governments from lawyers looking to cash in on the Covid-19 pandemic.

PCCJR took on the task of assembling a large and diverse coalition of organizations and businesses to support and advocate on behalf of SB 1239. We engaged in a concerted effort to educate legislators on the importance of the bill. Throughout the summer and into the fall, legislators consistently heard from PCCJR and our allies through correspondence, phone calls, and virtual meetings. Our hard work and perseverance paid off when the House and Senate passed the legislation as an amendment to House Bill 1737. This was a monumental achievement considering the General Assembly's traditional reluctance to buck pressure from plaintiffs' attorneys. Unfortunately, Governor Tom Wolf chose the interests of his trial bar allies over those of the general public and vetoed the bill.

As the pandemic rages on, the threat of Covid-19 liability litigation will not go away. We expect legislation to be introduced once again in both legislative chambers and PCCJR will continue to focus on this issue in 2021.

## Exposing the False Promise of False Claims

Early in 2020, a bipartisan group of House members released a package of bills to ostensibly reduce Medicaid fraud. Foremost among this package was House Bill 2352, which would create a state False Claims Act for Pennsylvania. PCCJR quickly pulled together a coalition of healthcare groups and business organizations to educate legislators on the complexities of this issue and the little understood impacts of false claims acts. After HB 2352 cleared the House Health Committee, PCCJR and our coalition partners continued to educate and discuss this issue with legislative leaders. The House ultimately declined to run the bill.

PCCJR expects this issue to resurface in 2021, and we will once again be ready.

## A United Front Rebuffs Venue Rule Change for Another Year

PCCJR has successfully battled against a plaintiff bar-inspired court rule change that would return venue shopping to medical liability cases. First proposed in late 2017, the proposal would return Pennsylvania to the days when plaintiffs' attorneys could bring medical liability cases to Philadelphia from almost anywhere in the state. Venue shopping is a form of lawsuit abuse and, in September, PCCJR testified against the proposal in a hearing held before the Senate Judiciary Committee. Since the hearing, PCCJR has worked with Senators to conduct further analysis on this issue to assist the Supreme Court's Civil Procedural Rules Committee in its deliberations.



## Educating Pennsylvanians on the Impact of Lawsuit Abuse

This year, PCCJR embarked on an educational effort to inform Pennsylvanians about lawsuit abuse and liability issues. Using social media and digital technology, we ran a series of ads informing residents about their elected representatives' stance on matters related to civil liability reform. These ads were viewed 5.9 million times over several weeks. They resulted in people calling their elected officials to either thank them for their efforts or encourage them to support liability reforms the next time. Civil liability impacts everyone, but isn't always discussed around the kitchen table. Expect more educational efforts to make lawsuit abuse and judicial fairness a hot topic in the mainstream.



## Legislative Elections

Once again, PCCJR produced its Voter Guide to help voters evaluate candidates for the Pennsylvania General Assembly. Questionnaires were sent to all candidates in open seats. The voting records of incumbents were evaluated, and a percentage score was assigned to each incumbent. The guide featured all this information as well as information on what makes a good legislator when viewed through the lens of civil justice reform. PCCJR keeps a lifetime score on all incumbent legislators and updates this information every two years during the legislative elections.



## A Voice in Court

PCCJR formalized its amicus brief program this year. Our Attorney Advisory Committee played a key role in advising the organization on how to evaluate cases, obtain counsel, and develop a budget for this program. Our amicus brief program brings PCCJR's advocacy directly to the courts. We hired some of the top attorneys in the state to present our legal positions and policy messages to the appellate courts. PCCJR is now in the courtroom to counter plaintiff advocacy and ensure that judges and justices benefit from our input when making decisions.

In 2021, PCCJR took the lead in organizing and filing the following briefs:

### Commonwealth of Pennsylvania v. Chesapeake Energy Corporation

Issue: May the commonwealth pursue antitrust remedies under the Unfair Trade Practices and Consumer Protection Law?

### Dockery v. Thomas Jefferson University Hospital

Issue: Are Pennsylvania's Medical Liability Venue Statute and Medical Liability Venue Rule constitutional?

### Mortimer v. McCool

Issue: Whether the Supreme Court should adopt the "enterprise theory" or "single entity" theory of piercing the corporate veil when two or more sister companies operate as a single corporate combine?

### Kirksey vs. Children's Hospital of Pittsburgh

Issue: Must a limiting jury instruction be given when evidence of general risks and complications are admitted in a medical negligence case?

### Leadbetter vs. Keystone Anesthesia Consultants

Issue: Must "peer review documents" be produced to an opposing party solely because they were maintained in a physician's credentialing file?

## An Unwelcome Distinction for Pennsylvania

In late 2020, The American Tort Reform Foundation named the Pennsylvania Supreme Court and the Philadelphia Court of Common Pleas its Number 1 Judicial Hellhole in America! In awarding this dubious distinction, opinions expanding civil liability, ignoring U.S. Supreme Court decisions on jurisdiction, and generally encouraging out of state litigants to file suit in Philadelphia were noted. Governor Wolf's veto of liability protection for Covid-19 exposure was also cited. PCCJR is working hard to educate both the General Assembly and our Appellate Courts on the impact of these decisions on the economy, healthcare, and individuals.

## PCCJR PRIORITY ISSUES IN 2021

In the coming year, PCCJR will continue its vigilance to stave off threats to Pennsylvania's civil litigation climate, strengthen our relationship with lawmakers and further cement our leadership on civil justice reform. As a valued member of our organization, you can expect to see PCCJR active and engaged on the following issues:

- Working to enact Covid-19 liability safe harbor protections;
- Continuing our leading role opposing the return of venue shopping to medical liability cases;
- Opposing the serious trial bar effort to enact a state False Claims Act that will subject business and health care providers to abusive and often frivolous lawsuits;
- Reviewing Supreme Court and Superior Court decisions to document cases that expand exposure to liability and damages, and track the votes of justices and judges;
- Continuing our successful amicus brief program as we assert our voice in appropriate cases before the courts;
- Developing an election guide to help voters navigate Pennsylvania's 2021 judicial elections. With one Supreme Court vacancy and several on the Superior and Commonwealth Courts, 2021 will be a critical election year for the future of PA's judiciary; and
- Developing legislation to reform our liability system and offer changes to rules governing civil cases.

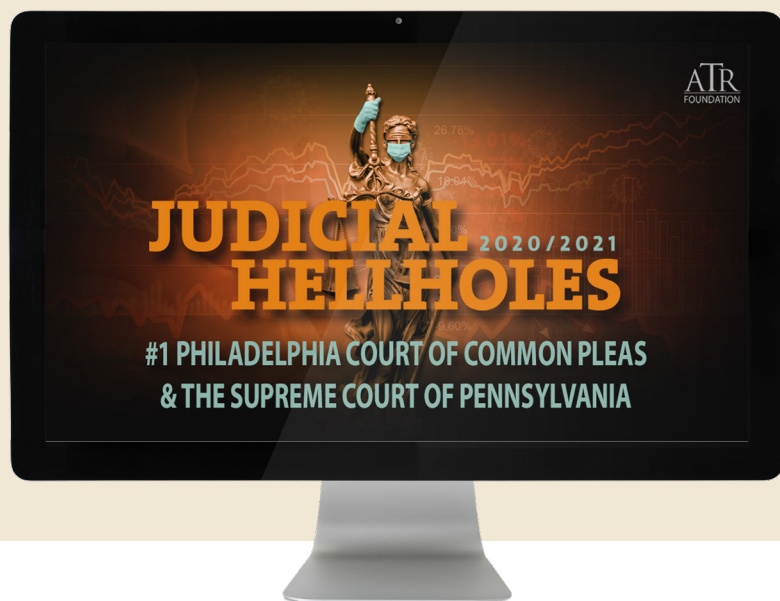
## ABOUT PCCJR

The Pennsylvania Coalition for Civil Justice Reform (PCCJR) is a statewide, nonpartisan alliance of organizations and individuals representing businesses, professional and trade associations, health care providers, nonprofit entities, taxpayers and other perspectives. The coalition is dedicated to bringing fairness to our courts by elevating awareness of civil justice issues, advocating for legal reform in the legislature, and educating voters about Pennsylvania's legislative and statewide appellate judicial races, the candidates, and the candidates' qualifications.

Pennsylvania needs a civil justice system that: is balanced and fair to all parties; applies the laws evenly based on the facts; provides access to justice for those truly injured; and discourages abusive litigation.

PCCJR is the only organization in Pennsylvania focused exclusively on legal reform. We provide a voice for those who are concerned about the problem of lawsuit abuse and civil justice fairness. Every year we collaborate with our allies to ensure our elected officials understand the challenges the current legal environment presents to employers, health care organizations and providers, and our communities.

The coalition is a 501(c)(6) nonprofit membership organization.



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