

A photograph of the St. Louis skyline at dusk or dawn. The Gateway Arch is the central focus, framing the Missouri State Capitol building in the background. The sky is filled with soft, golden light from the setting or rising sun. The foreground shows a body of water with a blurred light trail from a passing boat.

TRIAL 2018 **LAWYERS** **INC.**

UPDATE: MISSOURI

ABOUT THE AUTHOR



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Prior to joining MI, Copland was a management consultant with McKinsey and Company in New York. Earlier, he was a law clerk for Judge Ralph K. Winter on the U.S. Court of Appeals for the Second Circuit. Copland has been a director of two privately held manufacturing companies since 1997 and has served on many public and nonprofit boards. He holds a J.D. and an M.B.A. from Yale, where he was an Olin Fellow in Law and Economics; an M.Sc. in the politics of the world economy from the London School of Economics; and a B.A. in economics from the University of North Carolina at Chapel Hill, where he was a Morehead Scholar.

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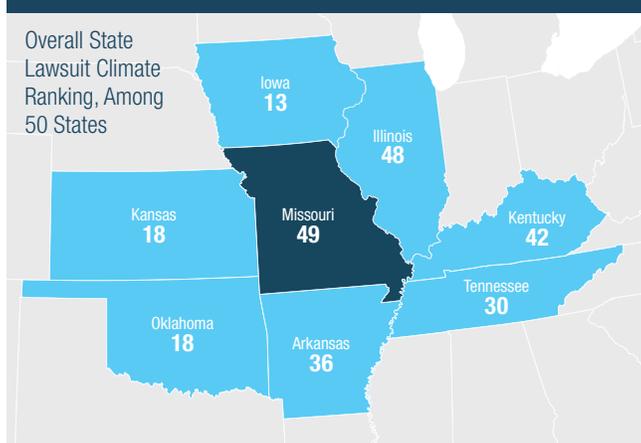
THE SUE ME STATE

Missouri Has Become a Magnet for Litigation Abuse

In most recent state economic rankings, Missouri has tended to be average, at best.¹ Its economic growth has been a middling 26th² and its population inflow 39th.³ But the state has ranked at or near the top for one dubious industry—the litigation business, which the Manhattan Institute has dubbed Trial Lawyers, Inc. In 2016, the American Tort Reform Foundation dubbed the City of St. Louis, Missouri, the worst “judicial hellhole” in the nation.⁴ In a 2017 survey of 1,300 corporate litigators and senior executives—conducted by Harris Interactive for the U.S. Chamber of Commerce Institute for Legal Reform—Missouri’s overall state liability system ranked 49th out of 50, trailing only Louisiana (Figure 1).⁵ Indeed, the Show Me State fell near the bottom in nearly every surveyed category (Figure 2).

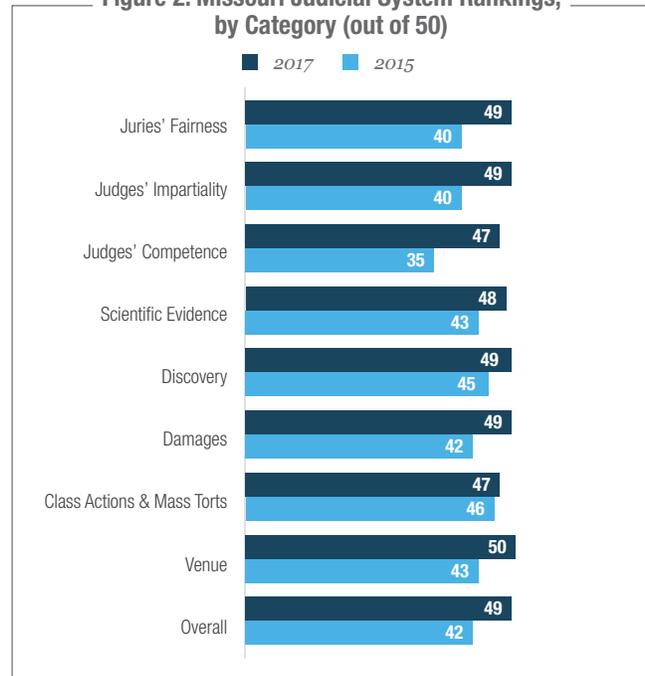
Unfortunately for Missouri, 85% of the corporate executives surveyed in the Harris Poll said that a state’s litigation climate “is likely to impact their company’s decisions about where to locate or expand.”⁶ Fortunately, Missouri’s elected leaders seem to grasp the problem. Newly elected governor Eric Greitens called for legal reform in his state of the state address,⁷ and Missouri legislators introduced more than two dozen bills in 2017 designed to improve the state’s legal climate.⁸ Several of these were enacted into law.⁹ Political leaders’ ability to build on this positive momentum—and fight back a likely counter from Missouri’s lawyer-friendly courts (see sidebar on page 3, “Missouri’s Pro-Tort Courts”)—will determine the degree to which the state can shed its Sue Me State label and begin to attract more businesses outside the litigation industry.

Figure 1. Missouri’s Lawsuit Climate Trails Its Neighbors



Source: U.S. Chamber of Commerce Institute for Legal Reform, 2017 Lawsuit Climate Survey

Figure 2. Missouri Judicial System Rankings, by Category (out of 50)



Source: U.S. Chamber of Commerce Institute for Legal Reform, 2017 Lawsuit Climate Survey



From left, Missouri Supreme Court Chief Justice Patricia Breckenridge, Judge Laura Denvir Slith, Judge Paul C. Wilson and Judge Mary R. Russell. Annie Rice/Missourian via AP

MISSOURI'S PRO-TORT COURTS

The Missouri courts have emerged as a major obstacle to reforming the state's abusive legal system. In 2012, the Missouri Supreme Court, in a 4–3 decision, threw out the state law establishing a cap on noneconomic damages in medical-malpractice cases—a law that had been in place in some form since 1986.¹⁰ The court found that the law violated the “right to a jury trial” in the state’s 1820 constitution, overruling a 20-year-old precedent that had applied the damage cap.¹¹ In 2014, the Missouri Supreme Court extended its 2012 holding to invalidate the state’s long-standing cap on punitive damages.¹²

One reason that Missouri’s courts have been hostile to legislative efforts to rein in lawsuit abuse is that judges are essentially selected by lawyers—with only attenuated influence by voters or elected officials. Rather than having its chief executive appoint judges with legislative confirmation (the federal model) or in state judicial elections, Missouri relies on an “Appellate Judicial Commission” to select nominees for its state appeals judges and justices. Although the governor formally nominates jurists, he must select from among three nominees forwarded to him by the commission—and if he fails to select one of the commission’s three picks within 60 days, the commission selects one of them to fill the judicial vacancy.

Incredibly, among the commission’s seven members, three are appointed directly by the Missouri Bar¹³—which is somewhat the case of the fox guarding the henhouse when it comes to lowering the costs of litigation. The governor does have the power to appoint three “citizen”

members of the commission, but the governor’s appointees serve staggered six-year terms. The three current gubernatorial slots on the commission were appointed by former governor Jay Nixon, a Democrat who opposed tort reform; among these is a nurse who formerly did work for a plaintiffs’ law firm.¹⁴ (The seventh member of the commission is the chief justice—who was initially selected by the commission.)

Missouri’s new governor, Eric Greitens, has signaled his support for changing the way the state selects its judges as part of his commitment to legal reform.¹⁵ Other advocates have lauded Missouri’s judicial selection model—including billionaire George Soros’s Open Society Institute, which has earmarked more than \$40 million to efforts pushing the “Missouri Plan” as a template for other states around the country.¹⁶

AMERICA'S NEWEST LAWSUIT HOT SPOT

Missouri's legal reputation has plummeted among business leaders as it has emerged as one of the nation's lawsuit hot spots. A Bloomberg report notes that St. Louis "has developed a reputation for fast trials, favorable rulings, and big awards."¹⁷

Missouri's loose venue and joinder rules enable plaintiffs' lawyers to bring out-of-state cases in Show Me State courts. (Venue governs the ability to bring a lawsuit and joinder the ability to add together different claims into a single piece of litigation.) In Missouri, plaintiffs' lawyers can file a claim if there is at least one individual claimant in the county, even if the case consolidates multiple claims from outside the area, including from other states. Missouri's trial bar also benefits from the federal rule in the U.S. Court of Appeals for the Eighth Circuit, which makes it harder to get cases removed to federal court than in other circuits—even when a local plaintiff or defendant was added solely to keep the litigation in state court.¹⁸

And in October 2016, the Missouri Supreme Court gave its seal of approval to allowing the state's courts to hear out-of-state disputes, when it permitted Missouri courts to consider a legal malpractice lawsuit from a Kansas company against a Kansas lawyer over its handling of a Kansas bankruptcy handled in Kansas federal court.¹⁹ In many major lines of product-liability litigation, St. Louis courts have been housing scores of claimants from around the country with only one or a few local plaintiffs (**Figure 3**)—often allowing plaintiffs' lawyers to pursue legal theories that other states' courts have rejected.

These plaintiffs' lawyers have been getting their cases heard in the Show Me State in part because Missouri, until this year, was among the minority of states that had not adopted the federal evidentiary standard articulated by the U.S. Supreme Court in *Daubert v. Merrill Dow Pharmaceuticals*,²⁰ which requires judges to act as gatekeepers weeding out scientific claims not buttressed by the best

A LAWSUIT-ABUSE POWDER KEG

For decades, new parents have relied on Johnson & Johnson baby powder in changing their infants' diapers. Though the American Cancer Society has broadly considered this everyday product to be safe,²¹ plaintiffs' lawyers have seized on a speculated link between talcum powder and ovarian cancer. The theory behind this asserted causal link is less than wholly clear, but essentially the claim is that powder particles that may have been used on diaphragms, condoms, or genital wipes traveled "through the vagina, uterus, and fallopian tubes to the ovary," where they had an effect.²²

Some studies—which relied on cancer patients' memories of talcum-powder use—suggested a small increase in risk, but more reliable "prospective cohort" studies that eliminated potential bias showed no relationship between talcum-powder usage and ovarian cancer.²³ In 2014, the federal Food and Drug Administration denied a petition by advocacy groups to include a warning label about ovarian cancer on talcum powder, finding that there was insufficient "evidence of a causal association between talc use in the perineal area and ovarian cancer."²⁴

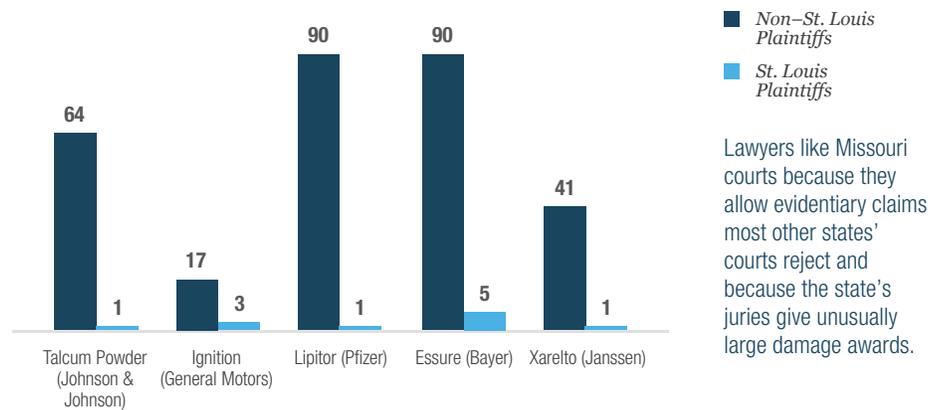
Courts in New Jersey—where Johnson & Johnson is headquartered—rejected expert testimony in lawsuits alleging that plaintiffs' ovarian cancer was caused by baby powder.²⁵ But such plaintiffs found a more hospitable home in Missouri courts, which until 2017 did not apply the U.S. Supreme Court's *Daubert*²⁶ standards for reviewing scientific testimony in federal litigation. In the year ending in June 2016, the St. Louis media market—which houses just 1% of the national television

audience—ran more ads seeking plaintiffs in talcum-powder lawsuits than any other market in the U.S.²⁷

This advertising blitz was part of Trial Lawyers, Inc.'s business model to attract plaintiffs, though the St. Louis focus also may have been part of a legal strategy to influence the jury pool—because Missouri's loose venue rules have allowed Show Me State lawyers to sue in local courts on behalf of plaintiffs situated all over the country. By the summer of 2016, two-thirds of the 2,100 talcum-powder-ovarian-cancer claims filed in the U.S. were situated in the City of St. Louis Circuit Court.²⁸ In 2016 and 2017, St. Louis juries considering these baby-powder cases returned four verdicts totaling \$307 million against the New Jersey-based Johnson & Johnson, on behalf of plaintiffs from Alabama, California, South Dakota, and Virginia.²⁹



Figure 3. Plaintiffs in Representative Mass Tort Litigation in St. Louis Courts



Source: Margaret Cronin Fisk, *Welcome to St. Louis, the New Hot Spot for Litigation Tourists*, BLOOMBERG BUSINESSWEEK (Sept. 29, 2016).

peer-reviewed studies. In Missouri, any “expert” with a credential could be certified to testify—no matter the underlying merits of the scientific claim being attested to. Thus, claims rejected by the scientific community, federal regulators, and other states’ courts—like those that Johnson & Johnson baby powder caused ovarian cancer (see sidebar on page 4, “A Lawsuit-Abuse Powder Keg”)—have been able to get a hearing in Missouri courts.

Plaintiffs’ lawyers also love to bring such cases in Missouri because they can count on hefty verdicts: in 2016, four of the eight largest product-liability verdicts in the U.S. were in Missouri courts.³⁰ Those four cases alone had verdicts totaling almost \$244 million. (Three of these cases involved baby-powder claims; the other claimed that food additives produced before 1977 by a company now owned by Monsanto caused non-Hodgkin’s lymphoma³¹—a causal link disputed by the American Cancer Society.³² Each of the plaintiffs in these cases lived outside Missouri.)

Missouri’s loose evidentiary standards and large jury awards have also made St. Louis a magnet for claims involving asbestos exposure, America’s longest-running mass tort—long focused across the Mississippi in Madison County, Illinois.³³ In 2016, St. Louis had 311 new asbestos-case filings³⁴—and the average complaint listed 79 defendants.³⁵ The number of new claims had increased almost 32% over 2015; between 2014 and 2016, Gori Julian—the Madison County

firm that is the nation’s most frequent filer of asbestos lawsuits—had increased its filings in St. Louis by more than 191%.³⁶ St. Louis faces more asbestos lawsuit filings than any jurisdiction in the U.S., save Madison County, New York, and Baltimore³⁷—and the second-most new claims alleging that asbestos had caused lung cancer, almost 16% of all lung-cancer claims nationwide.³⁸

Asbestos cases target peripheral defendants—the actual manufacturers of asbestos products have long since passed through bankruptcy—which makes Missouri’s complete “joint and several liability” damages rule quite attractive: a defendant can be held responsible for 100% of a plaintiff’s damages even when minimally at fault.³⁹ And Missouri courts’ outside damages often bear little relationship to the economic cost of injuries being considered by juries—at least not since 2012, when the Missouri Supreme Court found a constitutional right to unlimited noneconomic and punitive damages. A 2015 asbestos verdict of \$11.5 million included \$10 million in punitive damages,⁴⁰ against a manufacturer that sold asbestos-containing valves to the U.S. Navy that may have come into contact with the plaintiff when he worked in a World War II shipyard.⁴¹

Missouri’s excessive damage awards were not limited to product liability cases. For example, in 2015, a Jackson County jury assessed \$82 million in punitive damages against a debt-collection firm that had mistakenly tried to recover \$1,130 from a Kansas City woman.⁴²

THE UPHILL FIGHT FOR TORT REFORM

Although Missouri's legislature has periodically tackled tort reform—including by passing noneconomic and punitive damage caps subsequently invalidated by the state supreme court—Trial Lawyers, Inc. has donated heavily to state politicians' campaigns to thwart positive change. The plaintiffs' bar bet big on former governor Jay Nixon, a Democrat; lawyers contributed about one-third of the money in his campaign war chest, including several gifts exceeding \$100,000 from individual plaintiffs' litigation firms.⁴³ Nixon proved to be a good bet: in 2016, as a lame duck, he vetoed legislation that would have adopted the federal courts' *Daubert* evidentiary standard to weed out "junk science" courtroom claims.⁴⁴ The trial bar also bundles campaign cash to legislative leaders; Jill Schupp (D-St. Louis) and Scott Sifton (D-Affton) are among the senators to compile more than \$50,000 in trial-lawyer cash in the latest campaign cycle.⁴⁵

The litigation industry does not, however, limit its campaign largesse to Democrats. In the 2015 session, the evidentiary-reform bill was scuttled by Senator Kurt Schaefer (later elected Majority Caucus Leader) and Senator Eric Schmitt (since elected state treasurer); the two Republicans filibustered the reform bill, reading Chinese food menus during their debate time.⁴⁶ Schaefer and Schmitt were both partners in the law firm Lathrop Gage; over the last decade, they received \$136,000 and \$260,000, respectively, in political contributions from trial lawyers.⁴⁷

Fortunately, Eric Greitens made reforming Missouri's legal system a feature of his successful 2016 gubernatorial campaign. In his state of the state address, he proclaimed: "Our judicial system is broken, and the trial lawyers have broken it. Well, their time is up."⁴⁸ The early returns are promising, as several tort-reform bills have passed the Missouri legislature and been signed into law by Governor Greitens—headlined by the decision, at last, to adopt the federal *Daubert* standard to assess evidentiary claims.⁴⁹ Other legal-reform laws that have been enacted in 2017 include a law requiring that jurors consider evidence of economic damages actually paid by plaintiffs, including their health insurers (as opposed to initial medical billing charges);⁵⁰ a law designed to curb bad-faith insurance lawsuits;⁵¹ and laws reversing recent plaintiff-friendly rulings by the state supreme court that apply to employment and workers' compensation claims.⁵²

In addition to legislative efforts, the Missouri Supreme Court in February 2017 issued a ruling that should scale back some of the state courts' hospitality to out-of-state claims, when it ruled

that Missouri courts could not entertain suits against out-of-state companies concerning claims by out-of-state plaintiffs that have no relationship to Missouri.⁵³ The court relied not on Missouri law but the standard applied by the U.S. Supreme Court in its 2014 *Daimler* decision.⁵⁴ In June 2017, the U.S. Supreme Court issued another decision, *Bristol-Meyers Squibb*,⁵⁵ which held that a California state court could not assert personal jurisdiction against an out-of-state corporate defendant on behalf of out-of-state plaintiffs with no connection to the state, merely by joining those claims to California residents'. On the very next day, a St. Louis judge applied the decision to declare a mistrial in a case against Johnson & Johnson over baby powder, because the case included out-of-state plaintiffs with no connection to the Missouri case.⁵⁶ However, not all judges presiding over pending cases in the jurisdiction have followed suit, and the St. Louis judge who declared a mistrial in the baby powder case later took the reverse position in another baby powder case.⁵⁷

Fully realizing the potential of Governor Greitens's reform agenda, however, requires more comprehensive action:

- *Venue and joinder reform.* Ideally, the state legislature would amend the state's venue and joinder laws to ensure that plaintiffs have a connection to the area in which their cases will be tried—not relying solely on the U.S. Supreme Court's personal jurisdiction rulings, which, in any event, apply only to out-of-state plaintiffs. A series of such bills was introduced during the 2017 session and would be ripe for reconsideration.⁵⁸
- *Deceptive trade practices reform.* The Missouri Merchandising Practices Act⁵⁹—designed to deter consumer fraud—has facilitated shakedown class-action lawsuits over dubious labeling claims (see sidebar on page 7, "The Sweet-Tooth Suits"). Governor Greitens rightly called out abusive lawsuits under this act, but an aggressive fight by the plaintiffs' bar blocked action on legislation in 2017 that would have required a showing of actual injury caused by alleged deceptive practices, avoided duplicative damage awards, and modified class-action procedures.⁶⁰
- *Asbestos claims transparency.* Another bill introduced but not enacted in 2017 would have required plaintiffs to turn over evidence of claims that they have submitted to recover from asbestos trusts.⁶¹ This bill would prevent "double dipping" abuses in which plaintiffs recover from bankruptcy trusts established by asbestos manufacturers while also suing companies with more peripheral claims from still-solvent companies that may have used asbestos products.

Other reforms will take more long-term planning—including, in some cases, constitutional amendments. An amendment would be required to make good on Governor Greitens’s proposal to reform the Missouri Plan for picking appellate judges, which has enabled trial lawyers to screen the judges who ultimately rule on their cases. A constitutional amendment could also undo the Missouri Supreme Court’s misguided decisions holding unconstitutional commonsense limits on noneconomic and punitive damages—though the legislature could act on its own to limit the apportionment of all damages to defendants judged by juries to be minimally at fault.

Much work remains to be done; but in less than a year, Missouri has taken many positive steps that should stem some of the state’s worst lawsuit abuse. In time, the Show Me State should start to shed its “Sue Me” label.

THE SWEET-TOOTH SUITS

In recent years, the Rolla, Missouri, law firm Steelman, Gaunt, and Horsefield⁶² has developed a sweet tooth. On a single day in October 2016, the firm filed nine class-action lawsuits in Missouri courts against the manufacturers of movie-theater and Halloween candy favorites,⁶³ including Skittles,⁶⁴ Reese’s Pieces,⁶⁵ Junior Mints,⁶⁶ and Bit-O-Honey.⁶⁷

The lawsuits claimed that the candy makers were engaged in “deceptive marketing” because their boxes weren’t filled to the brim with candy—i.e., the boxes had “slack fill” that made them appear to contain more candy than they actually did, notwithstanding that content weights clearly appeared on packaging. The sweet-tooth suits were filed under the Missouri Merchandising Practices Act, which prohibits “deception, fraud, false pretense, false promise, misrepresentation, [or] unfair practice” in “trade or commerce.”⁶⁸

The Steelman firm’s lawsuit and others like it received a big boost on Nov. 8, 2016, when the Court of Appeals for the Eastern District of Missouri announced its decision in *Murphy v. Stonewall Kitchen*, which articulated a loose standard for filing false-claim suits under the act.⁶⁹ (The *Murphy* decision permitted a lawsuit against the producer of an “all natural” cupcake mix that contained the common leavening agent sodium acid pyrophosphate—rejecting the company’s defense that the ingredient was listed on the same packaging.)⁷⁰ The law firm representing *Murphy*, the Armstrong Law Firm of St. Louis,⁷¹ has filed dozens of similar food-labeling lawsuits against the manufacturers of brownies,⁷² pancakes,⁷³ biscuits,⁷⁴ muffins,⁷⁵ and similar baked wares.⁷⁶ Another sweet-tooth lawsuit line brought by the Armstrong firm challenges labels that list “evaporated cane juice” as a sweetener; these suits have gone after the makers of protein bars,⁷⁷ energy bars,⁷⁸ granola products,⁷⁹ macarons,⁸⁰ and cookies.⁸¹



1. See *Growth Rankings: Analyzing State Population and GDP Trends*, U.S. NEWS & WORLD REPORT (last accessed Nov. 20, 2016); *Missouri: Show Me Low Costs and Good Infrastructure in the Show Me State, and I'll Show You High Crime and Untrained Workers*, CNBC (July 11, 2017); *Best States for Business*, FORBES (last accessed Nov. 20, 2017); and *Best and Worst States for Business: 2017*, CHIEF EXECUTIVE (last accessed Nov. 20, 2017).
2. See U.S. NEWS ranking, *supra* note 1.
3. *Id.*
4. *City of St. Louis, Missouri*, JUDICIAL HELLHOLES.ORG (last accessed Nov. 20, 2017).
5. U.S. Chamber of Commerce Institute for Legal Reform, *2017 Lawsuit Climate Survey: Ranking the States* (last accessed Nov. 20, 2017).
6. Dan Mehan, *Greitens and Unified Legislature Making Sure Missouri Isn't the "Sue-Me State"*, KANSAS CITY STAR (Oct. 8, 2017).
7. Press Release, Missouri Governor's Office, "State of the State Address 2017" (Jan. 17, 2017).
8. Miranda Moore, *Missouri Lawmakers Call for Restrictions in Lawsuits*, COLUMBIA MISSOURIAN (Feb. 26, 2017).
9. Press Release, Missouri Chamber of Commerce and Industry, "A Turning Point for Missouri: Legislation Meets Lofly Goals for 2017 Session" (May 12, 2017).
10. *Watts ex rel. Watts v. Lester E. Cox Med. Ctrs.*, 376 S.W.3d 633 (2012).
11. *Adams v. Children's Mercy Hosp.*, 848 S.W.2d 535 (1993).
12. *Lewellen v. Franklin*, 441 S.W.3d 136 (2014).
13. Office of State Courts Administrator, *Missouri Appellate Judicial Commission* (last accessed Nov. 20, 2017).
14. See *id.*; see also *Missouri*, JUDICIALHELLHOLES.ORG, 2015–16 Report ("The lone newcomer [to the Appellate Judicial Commission] for 2015 is a nurse and former paralegal at a plaintiffs' firm.") (last accessed Dec. 20, 2017); Michelle Beckler, LINKED IN profile (listing work experience as a "legal nurse consultant" with Brian May LLC and listing Personal Injury and Litigation Support as "featured skills").
15. Kurt Erickson, *Greitens Wants Changes to How Missouri Picks Its Judges*, ST. LOUIS POST-DISPATCH (Oct. 25, 2016).
16. Colleen Pero, *Hijacking Justice: The Well-Funded Campaign to Replace Judicial Elections with Selection by Liberal Special Interests*, HERITAGE FOUNDATION WEBMEMO No. 3004 (Sept. 9, 2010).
17. Margaret Cronin Fisk, *Welcome to St. Louis, the New Hot Spot for Litigation Tourists*, BLOOMBERG BUSINESSWEEK (Sept. 29, 2016).
18. *In re Prempro Prod. Liab. Litig.*, 591 F.3d 613 (8th Cir. 2010).
19. *State ex rel. Heartland Title Servs., Inc. v. Harrell*, 500 S.W.3d 239 (Mo. 2016). (holding (at p.243) that when a company does not have a registered agent in the state, venue is proper in any county.) This essentially allows plaintiffs to forum shop for the most friendly courts.
20. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993).
21. American Cancer Society Medical and Editorial Content Team, *Talcum Powder and Cancer*, AMERICAN CANCER SOCIETY (Nov. 13, 2017).
22. *Id.*
23. *Id.*
24. See *Carl v. Johnson & Johnson et al.*, ATL-L-6546-14 & ALT-L-6540-14 (N.J. Super. Ct. Law Div., Sep. 2, 2016) (see analysis at pp. 22–23).
25. *Id.*
26. See *Daubert*, *supra* note 20.
27. See JUDICIAL HELLHOLES.ORG, *supra* note 4.
28. *Id.*
29. Reuters, *After \$195 Million in Talc Verdicts in St. Louis, J&J Looks for a New Court*, ST. LOUIS POST-DISPATCH (Nov. 7, 2017); and Joel Currier, *\$110 Million Verdict for Plaintiff in Fifth Talcum Powder Cancer Trial in St. Louis*, ST. LOUIS POST-DISPATCH (May 5, 2017).
30. See *Top 50 Verdicts in the United States in 2016*, TOPVERDICT (last accessed Nov. 20, 2017).
31. Juan Carlos Rodriguez, *Monsanto Hit with \$46.5M Jury Verdict in Mo. PCB Suit*, LAW360 (May 26, 2016).
32. American Cancer Society Medical and Editorial Content Team, *What Causes Non-Hodgkin Lymphoma?*, AMERICAN CANCER SOCIETY (last accessed Nov. 20, 2017).
33. See Lester Brickman, *Anatomy of a Madison County (Illinois) Class Action: A Study of Pathology*, LEG. POL'Y REP. No. 6 (Manh. Inst. for Pol'y Res., Aug. 2002); John H. Beisner and Jessica Davidson Miller, *Class Action Magnet Courts: The Allure Intensifies*, LEG. POL'Y REP. No. 5 (Manh. Inst. for Pol'y Res., July 2002); and James Copland, *Trial Lawyers, Inc.: A Report on the Lawsuit Industry in Illinois*, LEG. POL'Y REP. No. 4 (Manh. Inst. for Pol'y Res., Jan. 2006).
34. Taryn Phaneuf, *Analysis Shows More Asbestos Litigation Filed in St. Louis Courts in 2016*, ST. LOUIS RECORD (Mar. 30, 2017).
35. *Asbestos Litigation: 2016 Year in Review*, KCIC Industry Report (last accessed Nov. 20, 2017).
36. See *id.*
37. *Id.*
38. *Id.*
39. In one example, in 2016, a Jackson County jury issued a \$37.5 million judgment against a tractor trailer that had rear-ended a car and horribly paralyzed its driver; the defendant was held responsible for the whole sum even though the jury determined that the individual in front of the driver, whose car had suddenly stopped on the interstate, was 99% responsible for the accident. See Associated Press, *Missouri Jury Awards \$37.5M to Man Paralyzed by Crash*, WASHINGTON TIMES (Nov. 15, 2016).
40. Sindhu Sundar, *Crane Co. Hit with \$11.5M Asbestos Verdict in Mo.*, LAW360 (July 6, 2015).
41. *Poage v. Crane Co.*, 523 S.W.3d 496 (Mo. Ct. App. 2017), transfer denied (June 8, 2017), transfer denied (Aug. 22, 2017).
42. Associated Press, *Jackson County Jury Assesses \$82M Verdict Against Firm*, COLUMBIA DAILY TRIBUNE (May 18, 2015).

43. Walter Moskop, *Lawyers Favor Missouri Gov. Jay Nixon in Donations*, ST. LOUIS POST-DISPATCH (Feb. 14, 2012).
44. *See SB No. 591*, 98th Gen. Assemb. (2016).
45. *See Money Trail*, Missouri Chamber of Commerce and Industry (last accessed Nov. 20, 2017).
46. *See Missouri*, JUDICIAL HELLHOLES.ORG, *supra* note 4.
47. *See id.*
48. See Press Release, *supra* note 7.
49. Dennis Harms, *How New Expert Witness Rules May Impact Missouri Courts*, LAW360 (Apr. 10, 2017).
50. Travis Zimpfer, *Collateral Source Makes It to Greitens in Final Days of Session*, THE MISSOURI TIMES (May 11, 2017).
51. *See HB Nos. 339 & 714*, 99th Gen. Assemb. (2017).
52. *See SB No. 43*, 99th Gen. Assemb. (enacted June 30, 2017); and SB 66, 99th Gen. Assemb. (enacted July 5, 2017).
53. *State ex rel. Norfolk S. Ry. Co. v. Dolan*, 512 S.W.3d 41 (Mo. 2017), reh'g denied (Apr. 4, 2017).
54. *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014).
55. *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco Cty.*, 137 S. Ct. 1773 (2017).
56. *Mistrial Declared in Talcum Powder Suit After U.S. Supreme Court Limits Where Companies Can Be Sued*, ST. LOUIS POST-DISPATCH (June 19, 2017).
57. In June, 22nd Circuit Court Judge Rex Burlison declared a mistrial in a baby powder lawsuit against Johnson & Johnson, in light of the U.S. Supreme Court's decision in *Bristol-Myers Squibb*; but he subsequently allowed new trials to proceed on the theory that some talcum powder for Johnson & Johnson was sourced by the Georgia company Pharma Tech, which has a Missouri plant. See Amanda Bronstad, "Bristol-Myers" Disruptive Effect Nearly Instant in Missouri Talc Case, Transcript Shows, NAT'L L. J. (Oct. 13, 2017). On November 29, Judge Burlison denied a motion by Johnson & Johnson to vacate a \$110 million verdict in a baby powder case brought by a Virginia resident who bought her baby powder in Virginia. *See Order, Lois Slemp v. Johnson & Johnson*, No. 1422-CC09326-02 (Cir. Ct., City of St. Louis, Mo.); *see also* Nate Raymond, *J&J Ordered to Pay \$110 Million in U.S. Talc-Powder Trial*, Reuters (May 4, 2017).
58. Taryn Phaneuf, *Justice Reform Groups Continue Push for Venue, Jurisdiction Bills in Missouri Legislature*, LEGAL NEWSLINE (Mar. 15, 2017).
59. Merchandising Practices Act, Chap. 407, R.S.Mo., 1969, V.A.M.S.
60. *See SB No. 5*, 99th Gen. Assemb. (2017).
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