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# The Effect of Legal Rules on the Value of Economic and Non-Economic Damages and the Decision to File



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## Abstract

This study focuses on the economic consequences of tort reform. In particular, we address two issues. First, we test the relationship between tort reforms and claim severity for an automobile liability incident while controlling for a variety of cost drivers including the presence of no-fault rules, and the impact of a plaintiff's attorney. In addition to examining the effect of tort reforms on total claim severity, we also test their effect on economic and non-economic damages separately. Second, we test the proposition that tort reforms, by reducing the damages available at trial, have reduced the likelihood that an injured party will seek legal remedy. Both aspects of this study are examined with individual data from a large sample of insurance claims from 61 insurers. Our results suggest that many of the reforms have had a statistically significant effect on total damages, non-

economic damages and economic damages. Caps on non-economic damages, collateral source rule reforms, and minor reforms impacting prejudgment interest, frivolous suits, and provisions for periodic payments are negatively related to the value of non-economic claims, while joint and several reform is positively related to the value of non-economic claims. We find collateral source rule reforms and minor reforms are negatively related to the value of economic claims. We find that caps on non-economic damages and minor reforms are associated with a decreased probability to file. We do not find any evidence that joint and several or collateral source rule reform is associated with the decision to file.

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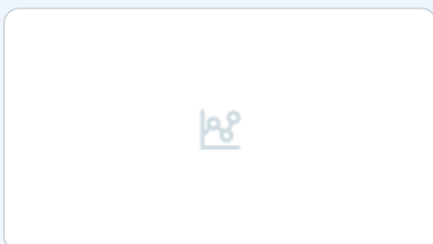
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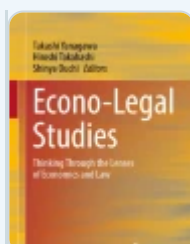
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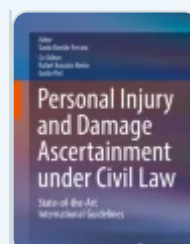
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## References

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All Industry Research Advisory Council. (1989). *Compensation for Automobile Injuries in the United States*.

Bureau of Justice Statistics, Carol DeFrances et al. (1992). *Special Report, Civil Justice Survey of State Courts*.

Born, Patricia, and W. Kip Viscusi. (1994). "Insurance Market Responses to the 1980s Liability Reforms: An Analysis of Firm-Level Data," *Journal of Risk and Insurance* 61, 192-218.

[Google Scholar](#)

Breusch, T., and A. Pagan. (1979). "A Simple Test for Heteroskedasticity and Random Coefficient Variation," *Econometrica* 47, 1287-1294.

[Google Scholar](#)

Brickman, Lester, Michael Horowitz, and Jeffrey O'Connell. (1994). "Rethinking Contingency Fees," The Manhattan Institute, New York, NY.

[Google Scholar](#)

Browne, Mark J., and Robert Puelz. (1996). "Statutory Rules, Attorney Involvement, and Automobile Liability Claims", *Journal of Risk and Insurance* 63, 77-94.

[Google Scholar](#)

Cooter, Robert D., and Daniel L. Rubinfeld. (1989). "Economic Analysis of Legal Disputes and Their Resolution," *Journal of Economic Literature* 27, 1067-1097.

[Google Scholar](#)

Cummins, J. David, and Sharon Tennyson. (1996). "Moral Hazard in Insurance Claiming: Evidence from Automobile Insurance," *Journal of Risk and Uncertainty* 12, 29-50.

[Google Scholar](#)

Danzon, Patricia. (1984)a. "Tort Reform and the Role of Government in Private Insurance Markets," *Journal of Legal Studies* 13, 517-549.

[Google Scholar](#)

Danzon, Patricia. (1984)b. "The Frequency and Severity of Medical Malpractice Claims," *Journal of Law and Economics* 27, 115-148.

[Google Scholar](#)

Danzon, Patricia. (1986). "The Frequency and Severity of Medical Malpractice Claims: New Evidence," *Law and Contemporary Problems* 49, 57-84.

[Google Scholar](#)

Danzon, Patricia, and Lee Lillard. (1983). "Settlement Out of Court: The Disposition of Medical Malpractice Claims," *Journal of Legal Studies* 12, 345-377.

[Google Scholar](#)

Gould, John. (1973). "The Economics of Legal Conflicts," *Journal of Legal Studies* 2, 279-300.

[Google Scholar](#)

Hensler, Deborah R., Mary E. Vaiana, James S. Kakalik, and Mark A. Peterson. (1987). "Trends in Tort Litigation: The Story Behind the Statistics," R-3583-ICJ, Rand Corporation, Santa Monica, CA.

[Google Scholar](#)

Hughes James W., and Edward A. Snyder. (1995). "Litigation and Settlement Under the English and American Rules: Theory and Evidence," *Journal of Law and Economics* 38, 225-250.

[Google Scholar](#)

Landes, William M. (1971). "An Economic Analysis of the Courts," *Journal of Law and Economics* 14, 61-107.

[Google Scholar](#)

Lee, Han-Duck, Mark J. Browne, and Joan T. Schmit. (1994). "How Does Joint and Several Tort Reform Affect the Rate of Tort Filings? Evidence from the State Courts," *Journal of Risk and Insurance* 61, 295-316.

[Google Scholar](#)

Ordover, J., and A. Rubenstein. (1983). "On Bargaining, Settling, and Litigating: A Problem in Multi-stage Games with Imperfect Information," New York University.

P'ng, Ivan Paak Liang. (1983). "Strategic Behavior in Suit, Settlement, and Trial," *Bell Journal of Economics* 14, 539-550.

[Google Scholar](#)

Posner, Richard A. (1973). "An Economic Approach to Legal Procedure and Judicial Administration," *Journal of Legal Studies* 2, 399-458.

[Google Scholar](#)

Salant, S. W., and F. Rest. (1982). "Litigation of Questioned Settlement Claims: A Bayesian Nash Equilibrium Approach," P-6809, Rand Corporation, Santa Monica, CA.

[Google Scholar](#)

Schmit, Joan T., Mark J. Browne, and Han Duck Lee. (1997). "The Effect of State Tort Reforms on Claim Filings," *Risk Management and Insurance Review* 1, 1-17.

[Google Scholar](#)

Snyder, Edward A., and James W. Hughes. (1990). "The English Rule for Allocating Legal Costs: Evidence Confronts Theory," *Journal of Law, Economics, and Organization* 6, 345-380.

[Google Scholar](#)

Viscusi, W. Kip. (1986). "The Determinants of the Disposition of Product Liability Claims and Compensation for Bodily Injury," *Journal of Legal Studies* 15, 321-346.

[Google Scholar](#)

Viscusi, W. Kip. (1990). "The Performance of Liability Insurance in States with Different Products-Liability Statutes," *Journal of Legal Studies* 19, 809-836.

[Google Scholar](#)

Viscusi, W. Kip. Richard J. Zeckhauser, Patricia Born, and Glenn Blackmon. (1993). "The Effect of 1980s Tort Reform Legislation on General Liability and Medical Malpractice Insurance," *Journal of Risk and Uncertainty* 6, 165-186.

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