

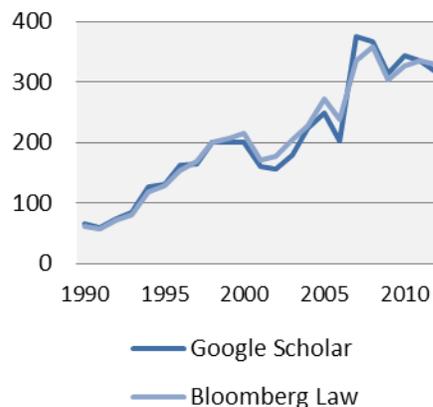
As New York embarks on a new era, with transitions in leadership and opportunities for change, the time is now to enact long overdue reforms to bring common sense back to the Empire State. New York is currently ranked worst in the nation for litigation risk, third highest in per-capita lawsuit costs, and has not enacted a single lawsuit reform since 1986. The enactment of these simple reforms would restore balance to the civil justice system, reduce lawsuit abuse, and reverse New York's reputation as a haven for lawsuits.

### Reform the "Scaffold Law"

**Problem:** New York Labor Law 240/241, or the "Scaffold Law," imposes total and virtually inescapable civil liability upon property owners and contractors for gravity-related construction accidents, and any contributing fault of the employee for the injury is not considered in court. New York is the only state in the nation with such a law.

**Solution:** Distribute liability in proportion to fault, as is the case in all other states.

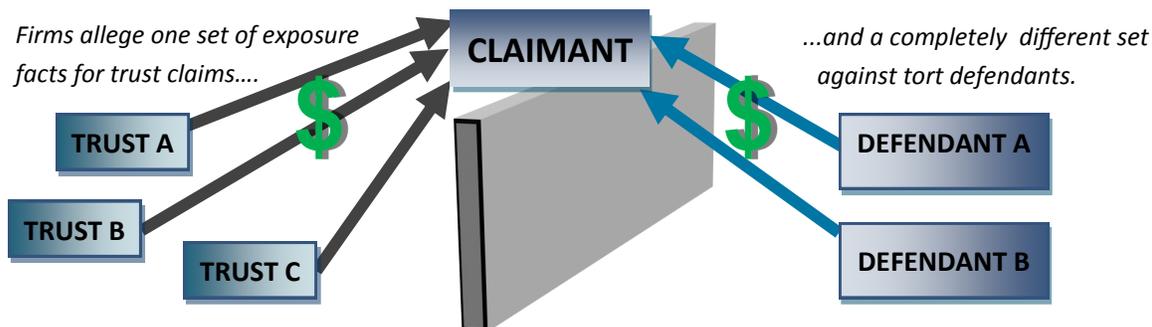
Scaffold Law Citations



### Open Asbestos Trusts

**Problem:** New York law does not require plaintiffs in asbestos actions to disclose whether they previously recovered from trust funds. Often lawyers will seek recoveries from both the tort system and the trust system alleging conflicting or even outright fraudulent claims. Lack of transparency encourages widespread abuse, stealing funds intended for the legitimately harmed.

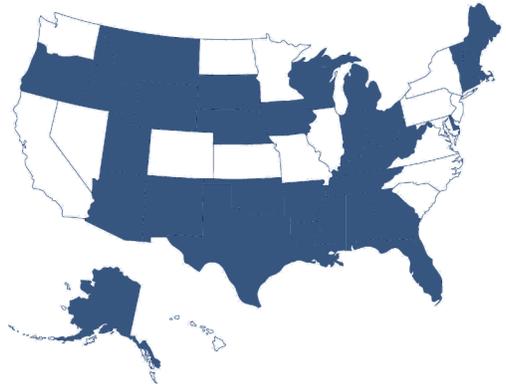
**Solution:** Require increased transparency for asbestos trust claims and stronger safeguards to prevent abuse of the system.



# Raise Standards for Evidence

**Problem:** (1) New York's antiquated standard of evidence predates the Great Depression, and requires only that theories of evidence be "widely accepted." This standard is inadequate for the 21st century, and allows lawsuits predicated on unsound theories. (2) Additionally, New York lacks a statewide time frame for disclosure of expert witnesses. Disclosure is deliberately withheld in order to coerce defendants into a settlement without knowledge of the strength of the case against them.

States Adopting the "Daubert Standard"



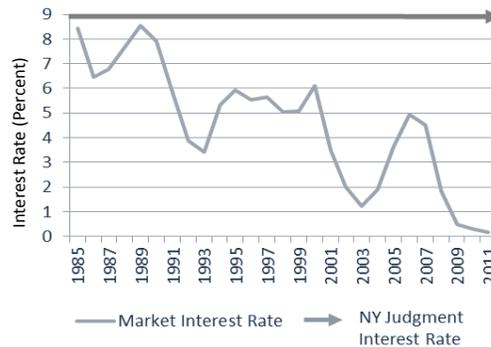
**Solution:** (1) Require evidentiary theories to be based on scientifically verifiable methods, the "Daubert standard," as is the case in Federal court and a vast majority of other states. (2) Require disclosure of experts well before the date of trial.



# Link Judgment Interest to Market

**Problem:** In New York, judgments accrue interest at a rate of 9% annually for as long as a case is pending. This fixed rate does not account for changing market conditions, and dramatically inflates award values while creating a strong disincentive for defendants to appeal a ruling.

NY Judgment Interest Rate vs. Federal Funds Rate



**Solution:** The interest rate must be linked to the federal funds rate.

# Enact "Fair Share" Liability

**Problem:** Under New York's current standard of "joint and several" liability, in a lawsuit with multiple defendants, one defendant as little as 1% responsible can be held fully liable for the full amount of a judgment if the other party is unable to pay their share.

**Solution:** Adopt "fair share liability," under which liability is always apportioned proportional to fault.

