# THE RIGHT WAY TO TAKE ON TRIAL LAWYERS AND WOKE LAWFARE: LITIGATION FINANCE ATTACKS WILL NOT GET THE JOB DONE AND WOULD DO REAL HARM TO IMPORTANT CONSERVATIVE CAUSES

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There is growing concern about the ways that trial lawyers are hijacking our court system, turning it into both a backdoor mechanism for achieving progressive policy outcomes and a reliable source of political money for left-wing candidates and political committees, often in coordination with activist groups.[1] The problem calls for a response, especially from conservatives who care about protecting our nation from woke lawfare. And there is a good one, as Kansas and Utah statehouses demonstrated this spring: bills that strip away the tools trial lawyers and their activist allies use to advance their agenda (and unlock money) through state court litigation. But there is also an ineffective, counterproductive response, which has been drawing resources and attention that could be better deployed into productive efforts to curtail trial lawyers and their political and ideological allies.

The ineffective solution focuses on so-called "third-party litigation finance" and attempts to make its acronym ("TPLF") into a bogeyman in the battle with trial lawyers. A growing federal effort—anchored most notably by Senator Thom Tillis's Tackling Predatory Litigation Funding Act—best embodies this approach. It proposes to tax, disclose, and otherwise try and curtail litigation finance by non-lawyers, on the theory that this would lead to less litigation and less power for the nation's trial lawyers.[2] Traditional tort-reform and civil justice groups have rallied behind these efforts, and so too have many major businesses.[3]

But these litigation finance efforts are ineffective on their own terms—even before considering how they fail to address the most consequential category of woke lawfare in America and would thwart conservative efforts to stop corporate America's leftward drift.

## I. LITIGATION FINANCE RESTRICTIONS ARE INEFFECTIVE AND COUNTERPRODUCTIVE.

The case for focusing on litigation finance flows from an intuitive premise: non-lawyer funders are an engine driving frivolous and ideological litigation, hence restricting the flow of

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[1] *See, e.g.*, Charles Creitz, *DEI, Climate Agenda Advanced Through Progressive-Backed Lawsuits, New Report Claims*, FOX NEWS (Feb. 12, 2026, 9:37 AM), https://www.foxnews.com/politics/dei-climate-agenda-advanced-through-progressive-backed-lawsuits-new-report-claims.

[2] Tackling Predatory Litigation Funding Act, S. 1821, 119th Cong. (2025) (Sen. Tillis); *see also* Litigation Funding Transparency Act, S. 3826, 119th Cong. (2026) (Sen. Grassley).

[3] *See, e.g.*, *Rules Committee Takes Initial Steps on TPLF 124 Companies, LCJ and ILR Call for Disclosure Rules*, LAWYERS FOR CIV. JUST., https://www.lfcj.com/tplf-disclosure-rule-sought-by-leading-companies-lcj.

this capital will cut off the cases and set back trial lawyers.[4] Indeed, this would be a powerful argument for the Tillis tax bill and perhaps even the various disclosure mandates being pressed in Congress and elsewhere, if that premise were accurate. But it isn't.

These litigation finance efforts will have a minimal effect, at best, on the overall cadence of litigation, in part because the proposed restrictions would not eliminate capital for litigation but would instead shift power and prominence even more toward the largest, shadiest trial lawyers—think the billboard-lawyers from Morgan & Morgan or Motley Rice, the super-tort outfit from South Carolina. Moreover, these proposals miss the most consequential category of woke lawfare in America today: the wave of state-court public nuisance suits against energy companies filed by states and local governments in an effort to impose a nationwide carbon tax, bankrupt the nation's energy producers, or otherwise regulate our nation's emissions by court order.[5] The Tillis tax bill and various disclosure mandates will not put a dent in the machinery pushing these climate suits, or the related cases over plastics, firearms, and other products on the Left's hit list. But these litigation finance restrictions would kneecap conservative legal organizations and law firms that are successfully challenging DEI, ESG, Planned Parenthood, and other progressive priorities.[6]

Put simply, litigation finance efforts fail on their own terms, fail to address core aspects of woke lawfare, and harm conservative efforts along the way, making for a massive, counterproductive waste of resources.

## II. LITIGATION FINANCE REFORM FAILS ON ITS OWN TERMS.

Judged on proponents' own terms, litigation finance reform would not accomplish its stated goals. It would not cut off capital to trial lawyers and end deleterious litigation. Instead, it would merely shift that litigation's funding streams, concentrating more power in the hands of large, wealthy law firms. Put differently, litigation finance reform would entrench the very trial lawyers it claims to constrain, making them more powerful and central to the litigation ecosystem.

To understand why this would be the case, consider the operative language of the leading litigation-finance proposal in Washington. The Tackling Predatory Litigation Funding Act does not ban litigation funding; it taxes it. The bill adds a new chapter to the Internal Revenue Code and imposes a tax, pegged to the top marginal individual income tax rate plus 3.8 percentage

[4] *See* Olivia Rondeau, *Consumer Advocates Sound Alarm on Sen. Thom Tillis's Tax Bill: 'Disastrous,'* BREITBART (May 27, 2025) (quoting Sen. Tillis, identifying "predatory" third-party litigation funding as a driver of "[f]rivolous lawsuits" that "undermine the integrity of our courts").

[5] *See* O.H. Skinner & Beau Roysden, *The Next Big States' Rights Case Might Not Be What You Think*, HARV. J.L. & PUB. POL'Y PER CURIAM, Summer 2024, https://journals.law.harvard.edu/jlpp/the-next-big-states-rights-case-might-not-be-what-you-think/; O.H. Skinner, *Supreme Court's Plaquemines Parish Case Deserves More Attention*, HARV. J.L. & PUB. POL'Y PER CURIAM, Fall 2025, https://journals.law.harvard.edu/jlpp/supreme-courts-plaquemines-parish-case-deserves-more-attention-o-h-skinner/.

[6] *See* O.H. Skinner, *A New Tax Provision Supposedly Targeting Junk Lawsuits Actually Imperils Conservatives*, THE FEDERALIST (June 27, 2025), https://thefederalist.com/2025/06/27/a-new-tax-provision-supposedly-targeting-junk-lawsuits-actually-imperils-conservatives/; Emily R. Siegel, *MAGA Backers Reflect Rare Split on Regulating Litigation Funders*, BLOOMBERG LAW (Mar. 9, 2026, 5:00 AM), https://news.bloomberglaw.com/business-and-practice/maga-backers-reflect-rare-split-on-regulating-litigation-funders.

points (roughly 41% today), on the "qualified litigation proceeds" that a "covered party" earns from financing a lawsuit.[7]

The details matter, because these definitions decide who pays and who walks free. For starters, the bill exempts trial lawyers themselves because a "covered party" within the meaning of the bill is any third party that receives funds under a "litigation financing agreement" and, importantly, "is not an attorney representing a party."[8] The bill also exempts investments, like ordinary debt, because the definition for what qualifies as an affected "litigation financing agreement" reaches written agreements under which a third party funds a named party or an affiliated law firm in exchange for a "direct or collateralized interest in the proceeds" of the case.[9] In practice, the tax reaches the investment fund that buys an interest in case proceeds but not a funder who instead structures money into litigation as a loan in which the funder's return is limited to repayment of principal plus interest at a capped rate.[10]

While it is perhaps open to debate how easily loans and other exempted debt structures could replace the current litigation funding model, the bill would plainly empower trial lawyers. In practice, the trial-lawyer-exclusion in the bill causes mega-firms to gain position and power. They become an unaffected channel for funding that would otherwise have come from outside, non-lawyer funders.

The quintessential example of this is Morgan & Morgan, the nation's largest personal-injury firm, whose eponymous founder has recently been featured in Forbes and elsewhere discussing how his law firm made him a billionaire.[11] With a trial-lawyer carveout, litigation finance reform makes John Morgan and other flush trial lawyers into prime magnets for less-capitalized law firms that might otherwise have turned to a Fortress Investment Group or comparable non-attorney litigation funders. Now, instead of turning to a regulated financial intermediary to finance a case as a non-lawyer funder, these firms will naturally be turning to co-counsel or other arrangements with firms like Morgan & Morgan (or Motley Rice, Lieff Cabraser, Napoli Shkolnik, and others who have built massive personal wealth through years of public nuisance and mass tort litigation), trading away a slice of the case in exchange for a capital infusion that is not covered by bills like the Tackling Predatory Litigation Funding Act.

Make no mistake, not only will debt workarounds emerge in response to bills like the Tackling Predatory Litigation Funding Act, but the traditional model of collateralized investment will continue as well, simply with trial lawyers themselves having almost total control over the market as compared to the present reality. There may be a small decline in profitability for some cases in some sectors, as it will be marginally harder to find capital. But the lion's share of commercial

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[7] S. 1821, *supra* note 2, § 2; *accord* Tackling Predatory Litigation Funding Act, H.R. 3512, 119th Cong. § 2 (2025) (identical House companion).

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *See, e.g.*, Brandon Kochkodin, *Meet John Morgan, The Billionaire Lawyer Behind $350 Million a Year in Ads*, FORBES (Dec. 5, 2024, 6:30 AM), https://www.forbes.com/sites/brandonkochkodin/2024/12/05/john-morgan-personal-injury-lawyers-billionaire/ ("All told, Forbes estimates Morgan and his family are worth at least $1.5 billion."); *see also* School of Hard Knocks Podcast, *I Took Down Disney & Coca-Cola…Now I Make $2 Billion/Yr*, YOUTUBE (Sept. 25, 2025), https://www.youtube.com/watch?v=u0XdaETDMjg.

litigation that is appealing to big personal injury firms like Morgan & Morgan will continue, just with a mega-firm like Morgan & Morgan or Motley Rice in the financial driver's seat behind a regulatory moat that increases their leverage within their industry.[12]

## III. LITIGATION FINANCE REFORM DOES NOTHING TO ADDRESS THE STATE AND LOCAL PUBLIC NUISANCE SUITS AGAINST ENERGY COMPANIES THAT CURRENTLY CONSTITUTE THE MOST CONSEQUENTIAL CATEGORY OF WOKE LAWFARE CASES.

Compounding the failures of the campaign against non-attorney litigation finance is the way that this campaign categorically fails to address the wave of municipal climate nuisance suits that are being pressed from coast to coast.

These suits represent an attempt to gain control of our economy and impose progressive lifestyle choices on even the most politically conservative parts of the country, effectively circumventing state legislatures and governing the nation through court judgments.[13] Honolulu's version of this litigation is a canonical example: the City and County of Honolulu seek billions in compensatory damages and equitable abatement from a bevy of energy companies, alleging that they were "directly responsible for the substantial increase in all CO2 emissions between 1965 and the present" and should "bear the costs" of climate-related impacts on the city.[14] Multnomah County in Oregon offers another representative example, suing energy companies for more than $50 billion—money that defendants could pay only, as a practical matter, by forcing nationwide operational changes or by entering bankruptcy.[15] Indeed, one proponent has said that the entire purpose of this form of litigation is to force a national carbon tax or drive energy companies into bankruptcy through massive judgments, allowing litigating governments to take corporate control as creditors.[16]

These climate change cases will go virtually untouched by efforts like the Tackling Predatory Litigation Funding Act, largely because they are a form of donor-backed ideological lawfare and do not rely on commercial litigation finance. Just consider Sher Edling, which is considered the

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[12] It is worth noting that these mega-firms are exactly the lawyers you might not want to have more power in an industry, as recent years have brought ethics troubles, employment disputes, and conflicts of interest problems. *See Wadsworth v. Walmart Inc.*, No. 2:23-CV-118-KHR (D. Wyo. Feb. 24, 2025) (Rankin, J.) (sanctioning Morgan & Morgan attorneys under Fed. R. Civ. P. 11 for filings that cited eight nonexistent, AI-generated decisions); *see also* Tate Miller, *Utah AG Ends Contract with Law Firm Entangled in Ethical Concerns*, CENTER SQUARE (Oct. 20, 2025), https://www.thecentersquare.com/utah/article_4063f6e7-1643-48c8-80dd-42aee7df0e92.html (describing "double dipping" and disqualification filings against Motley Rice); Colin Wolf, *John Morgan's marketing department argued over a nationwide dick joke. Half of them were later fired*, ORLANDO WEEKLY (May 27, 2021), https://www.orlandoweekly.com/news/john-morgans-marketing-department-argued-over-a-nationwide-dick-joke-half-of-them-were-later-fired-29389663/.

[13] *See* Skinner & Roysden, *supra* note 5; Skinner, *Plaquemines Parish*, *supra* note 5.

[14] First Amended Complaint at ¶¶ 4–7, City & Cnty. of Honolulu v. Sunoco LP, No. 1CCV-20-0000380 (Haw. Cir. Ct. Mar. 22, 2021); City & Cnty. of Honolulu v. Sunoco LP, 537 P.3d 1173 (Haw. 2023).

[15] Complaint at 174, Cnty. of Multnomah v. Exxon Mobil Corp., No. 23-CV-25164 (Or. Cir. Ct. June 22, 2023) (seeking "an abatement fund remedy . . . in the amount of at least $50 Billion").

[16] *See, e.g.*, Ed Whelan, *'Every Defendant [Oil Company] Declares Bankruptcy,'* NAT'L REV. (Oct. 20, 2025), https://www.nationalreview.com/bench-memos/every-defendant-oil-company-declares-bankruptcy/; William P. Barr, *The Supreme Court Can Stop an Unconstitutional Carbon Tax*, WALL ST. J. (Oct. 28, 2025, 4:54 PM), https://www.wsj.com/opinion/the-supreme-court-can-stop-an-unconstitutional-carbon-tax-f3833eaf; Emma Colton, *'Woke lawfare' exposed: Attorney unmasks carbon tax intent behind massive oil litigation*, FOX NEWS (Nov. 11, 2025, 12:47 PM), https://www.foxnews.com/politics/woke-lawfare-exposed-attorney-unmasks-carbon-tax-intent-behind-massive-oil-litigation.

go-to law firm for the cases in this genre.[17] The firm has received nearly $20 million since 2017 from family foundations and non-profit funding vehicles.[18] This includes more than $5.2 million between 2017 and 2020 from the Resources Legacy Fund, and almost $11 million since 2021 from the New Venture Fund, with additional money tracing to billionaire foundations like the MacArthur Foundation, the William and Flora Hewlett Foundation, and the Rockefeller Brothers Fund.[19]

Because this kind of grant-based funding takes no "direct or collateralized interest in the proceeds" of a case, these cases and their funding will continue regardless of commercial litigation finance restrictions like those being pressed in the Tillis tax bill. Disclosure bills will likewise have no effect, as these donations are already shown on traditional Internal Revenue Service tax forms, including donor foundations' Form 990s. All in, this categorical miss is another black eye for litigation finance efforts and a further demonstration of their limited utility in furthering their own goals.

## IV. CONSERVATIVES ARE UNIQUELY BURDENED BY LITIGATION FINANCE ATTACKS.

It is well established that the conservative legal movement has almost uniformly come out against litigation finance reform efforts in Washington and beyond, with a broad coalition of vocal opponents that includes Alliance Defending Freedom, America First Legal, Consumers' Research, Heartland Institute, and others. The breadth of this coalition itself shows that the various litigation finance reform bills cut against conservative interests.[20] And their complaints are consistent. They focus on how litigation finance attacks, whether disclosure- or tax-focused, take aim at conservative lawsuits over hot-button issues like DEI, ESG, abortion, and the doctors who mutilate children in the name of so-called transgender medicine, either actively blocking funding for these efforts or else providing yet another opportunity for the Left to name and shame those who dare cross the picket line to back these legal efforts.

Litigation finance reform efforts like those being pressed to date are clear and present dangers to important conservative causes. America First Legal's cases are prime examples, including its

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[17] *See, e.g.*, All. for Consumers, *Public Nuisance Revealed: The Leftwing Plan to Reshape Our Society*, PUBLIC NUISANCE REPORT, ch. 2 at 5 (Dec. 2023), https://allianceforconsumers.org/wp-content/uploads/2023/12/AFC_Public-Nuisance-Report-Chapter2-Final.pdf.

[18] Kamden Mulder, *Leading Climate Lawfare Firm Accepts Millions in Donations from Left-Wing Dark Money Groups*, NAT'L REV. (Dec. 21, 2025), https://www.nationalreview.com/news/leading-climate-lawfare-firm-accepts-millions-in-donations-from-left-wing-dark-money-groups/ ("Recent 990 forms filed by Sher Edling obtained by National Review reveal that the firm has accepted nearly $20 million since 2017 from dark money groups such as the Tides Foundation and the New Venture Fund.").

[19] *See id.* (nearly $11 million from New Venture since 2021); *see also* Thomas Catenacci, *Biden nominee coordinated dark money climate nuisance lawsuits involving Leonardo DiCaprio,* FOX NEWS (Mar. 30, 2023, 5:00 AM), https://www.foxnews.com/politics/biden-nominee-coordinated-dark-money-climate-nuisance-lawsuits-involving-leonardo-dicaprio (more than $5.2 million in contributions from Resources Legacy Fund between 2017 and 2020); Thomas Catenacci, *'Anti-Energy Lawfare': Millions in Dark Money Fueling Local Climate Lawsuits Across the Country, Congressional Investigation Finds*, WASH. FREE BEACON (Oct. 7, 2024), https://freebeacon.com/latest-news/anti-energy-lawfare-congressional-investigation-uncovers-dark-money-fueling-climate-change-lawsuits-nationwide/ (noting Sher Edling's funding traceable to the MacArthur Foundation, William and Flora Hewlett Foundation, and Rockefeller Brothers Fund).

[20] *See* Siegel, *supra* note 6; David Thomas, Mike Scarcella & Sara Merken, *Conservatives split on litigation funding reform legislation*, REUTERS (Nov. 20, 2025, 4:08 PM), https://www.reuters.com/legal/government/conservatives-split-litigation-funding-reform-legislation-2025-11-20/.

shareholder derivative action against Target over Pride and DEI-related fiduciary disclosures, plus a cluster of DEI suits against CBS, Northwestern University's law school, and others.[21] And then there is Hacker Stephens, the conservative, Texas-based law firm behind an anti-ESG ERISA suit against American Airlines and a false claims suit in Texas that threatens to bankrupt Planned Parenthood.[22] Here, name-and-shame litigation finance provisions could sharply cut funding—and, unlike the Left's preferred lawsuits, that loss will likely doom the cases or their follow-ons. Conservatives cannot fall back on the trial-lawyer loophole that lets wealthy, long-established left-wing shops like Morgan & Morgan and Motley Rice—who give 99% of their federal political dollars to national Democrats and their allies—step in to provide funding as co-counsel when other funding is cut off by tax provisions, name-and-shame measures, or some combination of both.[23]

In short, the various litigation finance reform bills pose a real threat to conservative legal efforts, and all of this is on the table in exchange for a mere thimbleful of effect on trial lawyers, given the limited utility of litigation finance reform and its inability to tackle the most salient single category of lawfare in our courts—climate change and other ideological public nuisance cases. That cost-benefit ratio fails any rational test, unless the point is to hurt conservatives, whatever else the measures accomplish.

## V. PASSING LEGISLATION TO TAKE AWAY COMMON TRIAL LAWYER LEGAL MANEUVERS AND ABUSIVE CAUSES OF ACTION IS MUCH MORE EFFECTIVE.

If litigation finance reform misses the mark, what hits it? To impede left-wing trial lawyers and the woke lawfare they wage nationwide, look to Kansas and Utah. This past legislative session, both states passed measures to curtail the actual causes of action and common legal maneuvers exploited by trial lawyers and their allies.

Kansas recently enacted a public nuisance reform bill that shows a crisp, clean way to remove this tool from the woke lawfare arsenal. Senate Bill 462 codified a core pair of reforms that effectively end the ability of trial lawyers and activists to weaponize public nuisance litigation: (1) lawful, licensed, regulated products and government-approved activities cannot be the basis of a public nuisance claim, and (2) local governments are limited to pursuing nuisances "that fall entirely within their own jurisdictions."[24] Democratic Governor Laura Kelly vetoed SB 462 on April 8, 2026, but the Kansas Legislature overrode that veto the following day, with the House

[21] *See, e.g.*, Craig v. Target Corp., No. 2:23-cv-599 (M.D. Fla.) (shareholder derivative action challenging Target's Pride/DEI disclosures); Press Release, *America First Legal Sues Northwestern University for Discriminating Against White Men in Faculty Hiring*, AM. FIRST LEGAL (July 2, 2024), https://aflegal.org/press-release/america-first-legal-sues-northwestern-university-for-discriminating-against-white-men-in-faculty-hiring/; Press Release, *America First Legal Sues CBS for Illegal Employment Discrimination Against Decorated Navy Combat Veteran*, AM. FIRST LEGAL (Jan. 24, 2025), https://aflegal.org/press-release/america-first-legal-sues-cbs-for-illegal-employment-discrimination-against-decorated-navy-combat-veteran/.

[22] *See, e.g.*, Ashley Oliver, *Appeals court hears Medicaid fraud case that could cost Planned Parenthood $1.8 billion*, FOX NEWS (Sept. 26, 2025, 5:23 PM), https://www.foxnews.com/politics/appeals-court-hears-high-stakes-case-planned-parenthood-medicaid-funds; Jacklyn Wille, *American Airlines 401(k) ESG Row Spurs $8 Million Lawyer Fee Ask*, BLOOMBERG LAW (Nov. 5, 2025, 10:19 AM), https://news.bloomberglaw.com/employee-benefits/american-airlines-401k-esg-row-spurs-8-million-lawyer-fee-ask.

[23] *See* Siegel, *MAGA Backers*, *supra* note 6 (describing opposition from ADF, America First Legal, Heartland, and Consumers' Research).

[24] Kan. S.B. 462, 2025-26 Leg., Reg. Sess. (Kan. 2026).

voting 86-37 and the Senate 30-9 to enact the bill into law.[25] SB 462 takes effect on July 1, 2026.[26] Utah passed a similar measure—HB 591—that likewise bars public nuisance claims against licensed, regulated, lawful products and over actions or conditions authorized or approved by a governmental entity.[27]

These public nuisance provisions serve as a model for how to attack woke lawfare at its root in a way that can marshal a legislative majority; doctrinally precise, they preserve traditional claims, even by local governments, while foreclosing their use as a vehicle for ideological lawfare. And there is more on the horizon, as similar measures are expected next session in states like Texas.

This model is also available for other causes of action that trial lawyers and their activist allies are using to advance their agenda (and unlock money). For example, Kansas did not stop at public nuisance litigation in SB 462. It also barred negligence claims by those engaged in crimes or similar wrongful conduct: "notwithstanding any other provision of law, a person who engaged or participated in wrongful conduct or attempted to engage or participate in wrongful conduct shall not bring an action for negligence or collect damages for negligent conduct related to such wrongful conduct," where "wrongful conduct" means a violation of "federal law that constitutes a crime," as well as state law felonies and higher-level state-law misdemeanors.[28] This bars anyone engaged in (or attempting) crime from suing to profit off injuries sustained during that criminal conduct.[29] This reform aligns the legal system with what reasonable citizens think is logical and fair: criminals should never be allowed to profit from illegal activity through lawsuits. It also prevents trial lawyers from using this maneuver to extract money and profit from pro-crime policies at the local level. And this same approach can be deployed in response to other common trial lawyer maneuvers, including schemes that route accident victims from one medical provider to the next—sometimes to providers the lawyers themselves own—inflating fees for the lawyers and clinics, often at the injured person's expense. The approach is malleable and powerful.

The lesson from Kansas and Utah is that taking on abusive causes of action and schemes at the state level helps degrade trial lawyers' power and protect everyone from woke lawfare, including homeowners, small business owners, and even those who have been injured in accidents. This is a much better path to curtailing courtroom maneuvers and litigation campaigns than targeting the money behind the lawsuits. The abusive causes of action will still exist for trial lawyers even if the ideal version of litigation finance reform passes in Washington or somewhere

[25] Bill Progress, S.B. 462, Kansas Legislature, https://www.kslegislature.gov/b2025_26/bills/sb462/.

[26] S.B. 462, *supra* note 24, § 1(b).

[27] H.B. 591, 2026 Gen. Sess. (Utah 2026) (establishing that a public nuisance claim cannot be sustained over "an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity," and also that "the design, manufacturing, distributing, selling, labeling, or marketing of a legal product" cannot qualify as a public nuisance).

[28] S.B. 462, *supra* note 24, § 1.

[29] *See, e.g.*, Tom Joyce, *Kansas legislature overrides Kelly veto on 'lawfare' bill, limiting public nuisance lawsuits*, CENTER SQUARE (Apr. 14, 2026), https://www.thecentersquare.com/kansas/article_c6afbaed-c19b-4927-8c3f-d64f4b7bc6d4.html (SB 462 "includes sections aimed at limiting lawsuits from individuals injured while committing crimes, preventing them from seeking damages tied to their own illegal actions.").

else. And so long as the causes of action remain in the trial lawyer and activist toolkit, the cases will still be filed and money will find a way to them—through the trial-lawyer loophole already written into measures like the Tillis bill or some other route—much as water finds its way around any barrier. Move instead against the underlying causes of action, and you not only remove the underlying litigation mischief, but you also help cauterize the political donations that flow from the profits off such actions. Remember, trial lawyers send well north of 90% of their federal political donations to Democrats and their aligned groups.[30]

## CONCLUSION

The energy currently directed at litigation finance reform is aimed at the wrong target. Litigation finance reform produces, at best, limited results on its own terms. More importantly, it misses the most consequential category of woke lawfare in American courts: state-court climate and consumer-product nuisance suits, which do not depend on commercial litigation finance. The alternate method of state public nuisance reform cuts off woke climate lawfare at the source. It works even against the best-funded plaintiffs' firms. And it does so without disrupting the funding ecosystem that conservative litigators have built to challenge DEI, ESG, and other progressive corporate practices in court. That same approach can be deployed to other schemes that trial lawyers and their activist allies rely upon. And this isn't just theory. As this past legislative session showed in Utah and Kansas, successfully tackling the actual causes of action and trial-lawyer maneuvers can be and is being done right now in state legislatures.

If the goal is to impede left-wing trial lawyers and the woke lawfare they wage nationwide alongside their activist allies, do not look to litigation finance reform efforts that offer a poor (or even negative) return on investment vis-à-vis trial lawyers and their activist allies; rather, follow Kansas and Utah and pursue state or federal legislation that curtails the actual causes of action and legal maneuvers that trial lawyers exploit.

[30] *See, e.g.*, Carrie Campbell Severino, *New Data from Professor Derek Muller Is a Fresh Wake-up Call on the Dangers of Woke Trial Lawyers*, NAT'L REV. (Oct. 2, 2025), https://www.nationalreview.com/bench-memos/new-data-from-professor-derek-muller-is-a-fresh-wake-up-call-on-the-dangers-of-woke-trial-lawyers/ ("Firm after firm shows 100% Democratic giving by their employees—not 95%, not 98%, but literally every dollar going to liberal causes.").