



**PUBLIC OPINION  
STRATEGIES**

*Turning Questions Into Answers.*

**TO:** INTERESTED PARTIES

**FROM:** BILL MCINTURFF / LORI WEIGEL

**RE.:** KEY FINDINGS FROM A SURVEY OF LOUISIANA BUSINESS DECISION MAKERS REGARDING PERCEPTIONS OF LAWSUITS

**DATE:** APRIL 21, 2008

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Public Opinion Strategies recently completed a survey of Louisiana businesses regarding their attitudes toward the general business environment and specifically their perceptions of lawsuits in their state.<sup>1</sup> Overall, the survey found that executives at Louisiana businesses overwhelmingly view frivolous lawsuits as a serious problem in their state, say the problem is only increasing, and therefore seven-in-ten say the state needs new laws to protect businesses from frivolous or unfair lawsuits.

Among the specific findings of the survey are the following:

- Louisiana business executives view frivolous lawsuits as a serious problem. Fully 89% say “the number of frivolous lawsuits” is a serious problem, with a solid majority (60%) viewing it as a “very serious problem.” Concern extends across different business sectors, including a stunning 96% of retail sector business owners and decision makers who say this is a problem. The view that this is a serious problem also crosses party lines among these corporate decision makers. A large majority, 93% of Republicans, 79% of unaffiliated/Independents and 85% of Democrats say this is a serious problem. Literally in every demographic and attitudinal group, Louisiana company executives echo the refrain that frivolous lawsuits are a serious problem.

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<sup>1</sup> *Public Opinion Strategies conducted this survey of N=200 business decision makers throughout Louisiana (margin of error  $\pm$  6.93%). Interviews were structured so that the overall sample is proportionally appropriate for size of company as determined by number of employees for that state. We also conducted an additional 50 interviews among decision makers at companies with 100 or more employees. All individuals interviewed are at companies with three or more employees and indicated that they are either the owner/responsible for running the business, a person responsible for financial decisions or responsible for legal matters at the company. Interviews were collected during business hours March 31-April 14, 2008. The survey was conducted on behalf of the U.S. Chamber of Commerce Institute for Legal Reform.*

- Furthermore, this concern is clearly not just an abstract notion. Business decision makers told us that frivolous lawsuits affect their own business on a number of different levels:
  - Thirty-six percent (36%) say “The threat of frivolous lawsuits being filed against your company” is a serious problem affecting their own company. This increases to a significant 56% among companies with 100 or more employees.
  - Greater than one out of every two business decision makers (53%) has made a business decision *primarily* to avoid a potential lawsuit.
  - Conversely, 94% say that the threat of a lawsuit is a factor in the business decisions their company makes. A mere 5% say it is never a factor.
  - Indeed, one-in-five have been sued in the last two to three years (18%), and an equal number say their company has been threatened with a lawsuit (18%). *This is dramatically higher among the largest companies in Louisiana, as fully 58% have been sued in the last few years alone, and an additional 59% say they have been threatened with civil litigation.*
- The concerns of business decision makers are seen most vividly in specific comments they recounted during the interview. Just a few examples of how lawsuits are affecting their company, their employees and their customers are provided here:

*“The frivolous lawsuits result in having to cut back on qualified personnel, plus the quality of products we can sell to the public. Plus, it makes it to where you have to add more extensive security to your business in order to have documentation of what happened at the business for the lawsuit. Which is bad for the business, because therefore your employees suffer not being able to give them the benefits they deserve. Just if the laws don't change, then it makes the people getting away with these frivolous lawsuits, getting away with it. And it doesn't just hurt my business, but it hurts businesses throughout the continental United States. And I just personally feel there's something that can be done.”* – Business decision maker at a retail/wholesale company with 10-19 employees

*“Every decision made is based on lawsuit. Office parties are now cut out because lawsuits are in the back of my mind. That is mainly the focus of everything. The lawsuits are always leaning on me.”* – Business decision maker at a retail/wholesale company with 20-49 employees

*“Well it's definitely increased the cost of our business and increased the cost of providing new services that we don't have a lot of experience in because there's a greater chance of a lawsuit. Well I'd really like to say that since I'm in the legal business, it really affects my clients more than me liability insurance is just out of sight. A lot of my clients curtail things for the public because of suits. Some of my clients have a surplus of materials that they'd like to donate, but they're afraid of suits so they throw it away.”* – Business decision maker in service sector company with 3-9 employees

*“Just the cost of them is unacceptable. Because we have to raise prices of everything else to make sure that we can afford to cover ourselves legally. They need to crack down on them, and stop them.”* – Business decision maker in health care company with 3-9 employees

*“The impact of frivolous lawsuits burns up a lot of human energy, and we could use this energy to make other things better in this industry. Like providing better care for our patients.”* – Business decision maker in health care company with 250-500 employees

- Louisiana company executives tell us they do not see this concern going away. Nearly six-in-ten (59%) say the number of frivolous lawsuits against companies in their state has increased in the past three to five years (25% say it is about the same and a mere 3% think it has decreased). A solid majority sees this trend continuing, as 58% think the number will increase in the next three to five years (just 9% predict the number of frivolous lawsuits against companies will decrease, while 27% say it will stay about the same).
- Thus, it is no surprise that the vast majority of Louisiana business decision makers desire change. A significant 69% say Louisiana “needs to pass new laws to protect business from frivolous or unfair lawsuits.” A majority of every size company’s executives believe the state needs new laws rather than already has enough – a significant call for government action from this fairly conservative audience. Not surprisingly, support for new laws to protect businesses from frivolous lawsuits is higher among those who say their company has been sued in the last few years (76% support new laws), but still stands at 68% even among those whose company has not been directly affected.
- Similarly, a stunning 91% say there ought to be change to the current lawsuit system (rating change as 51-100 on a scale where 100 means significant change and 0 means no change at all to the lawsuit system).

*In summary, it is clear Louisiana business decision makers view frivolous lawsuits as a serious problem and that they are individually being affected in numerous ways by this issue. They overwhelmingly call for action to protect businesses from frivolous lawsuits and desire change on this front.*

## ADDENDUM

The 18% of Louisiana business decision makers who indicated they had been sued in the last two to three years were provided the opportunity to describe their most recent experience: *“Thinking about the most recent case, very briefly can you tell me what issues the allegations centered on and what impact that had on your company?”* Some of the more descriptive comments are provided as examples of what state business owners and decision makers said they are facing when it comes to lawsuits.

“There was a truck that hit a bus in New Orleans. But through GPS, we were able to confirm that none of our trucks were in the area. They stated the truck was yellow, and all our trucks are white. But when we filed for dismissal, the judge said the plaintiffs needed their day in court. It cost us 25,000 dollars in legal fees, and we were not able to recoup any of those monies.” – Business decision maker in Transportation/Utility/ Communications, 500-1,000 employees

“The customer’s vehicle was flooded during Hurricane Katrina. It was in my service department. He did not have insurance because of a DWI. So he sued me to cover the repairs. I won. But it cost me thousands to defend myself. Financially the thousands of dollars lost to defend myself in court.” – Business decision maker in Service Industry, 100-250 employees

“I caught somebody giving out trade secrets, so they just filed a frivolous lawsuit to complicate things. They just got an attorney involved to wreak havoc on me. They tried to get my emails, and personal emails to make up another side of the story. I think you should be able to sue people for filing frivolous lawsuits.” – Business decision maker in Retail/Wholesale, 20-49 employees

“It centered on sexual harassment in the workplace. And it affected the company, as far as job losses. The person that filed the lawsuit had already done it with a previous employer, which resulted in loss of jobs.” – Business decision maker in Retail/Wholesale, 10-19 employees

“The last case was when someone sued about 179 different businesses at the same time about denying him service. It ended up getting overruled. But it was time and resources I could have spent somewhere else.” – Business decision maker in Service Industry, 3-9 employees

“It was someone who filed a lawsuit, saying they got food poisoning at my establishment. And I’m in the food industry, and someone claimed they had food poisoning, and there were several thousand people who ate at my establishment that day, and if I had spoiled food, more than one person would have become ill. And it was something we dealt with for months and months, and my time, and when it was said and done it was thrown out, dismissed and no judgment for the person at all. And in turn it will make my cost of insurance go up.” – Business decision maker in Retail/Wholesale, 50-99 employees

“It was a frivolous patent. It almost shut us down. I am going to be the 140<sup>th</sup> person in the United States to actually have a frivolous patent overturned.” – Business decision maker in Transportation/Utility/Communications, 20-49 employees

“Somebody said I didn’t pay them. I did pay them. I had to go through the motions and show them my bank account to show them I paid them. And we are still going to court.” – Business decision maker in Service Industry, 3-9 employees