

Lawsuit Reform Alliance  
of New York

Justice. Fairness. Common Sense.

*Exploring the Influence of  
the Trial Bar in*

# New York State Politics

**December 2012**



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## About the Lawsuit Reform Alliance of New York

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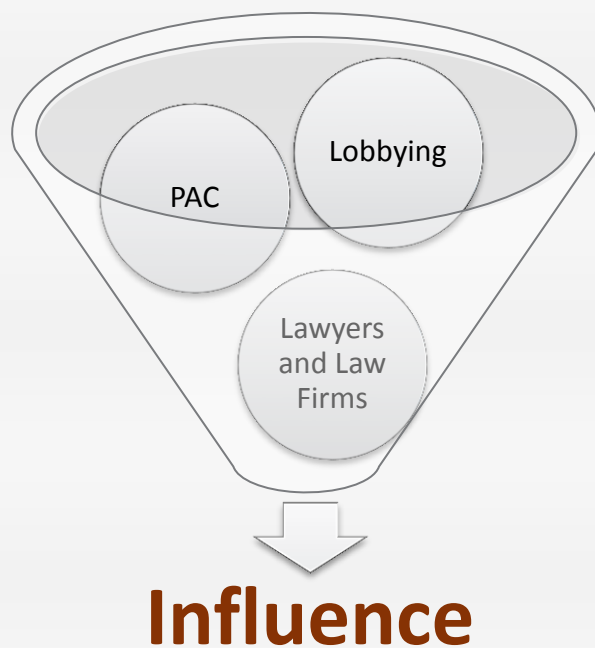
The Lawsuit Reform Alliance of New York (LRANY) is a 501(c)(4) nonprofit organization which advocates for reform of the legal system in order to foster a better business climate, promote job growth, and address the growing cost of lawsuit abuse. LRANY's members include local and national businesses, entrepreneurs, growers, healthcare providers, and taxpayers from across the state.

## Executive Summary

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This report analyzes spending by trial lawyers on state-level elected officials between January 1, 2006 and November 29, 2012. The report relies on publically available information to examine the three main components of monetary influence:

- Lobbying expenditures
- Campaign contributions by trial lawyer political action committees (PACs)
- Independent campaign contributions by law firms and lawyers



## Notes on Political Influence in New York

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This report expresses influence as a product of *lobbying* and *campaign contributions*. While both mechanisms are commonly used to influence elected officials, they differ in several key respects.

*Lobbying* is defined, broadly, as activities meant to influence the passage or defeat of any legislation by either house of the state legislature or approval or disapproval of any legislation by the governor. Lobbying, in short, involves legislation, orders, and rules. All persons or organizations which spend more than \$5,000 in any given year must register as a lobbyist and disclose all lobbying-related spending publically. There is no monetary limit on lobbying spending in New York.

*Campaign contributions* are defined, broadly, as expenditures expressly made to impact the outcome of an election of a public official. All campaign contributions are reported to the state Board of Elections. In New York, individuals and limited liability companies (LLCs) may make up to \$150,000 in political contributions annually, incorporated businesses and nonprofits may contribute up to \$5,000, and partnerships may contribute up to \$150,000 per individual partner. Campaign contributions by special interest groups are typically made through an associated political action committee (PAC). The New York State Trial Lawyers Association operates the LAW PAC committee, and the New York Academy of Trial Lawyers operates the ATL PAC committee. These committees and their related organizations are used interchangeably in this report for purposes of convenience and clarity.

It is important to bear in mind two important points about this data. First, this report analyzes only the *monetary inputs*<sup>1</sup> into state politics – the report does not attempt to quantify the *outputs* resulting from or attributable to such activity (for example, the enactment of legislation which is beneficial to trial lawyers). Second, this report does not analyze mechanisms of influence which are not quantifiable in monetary terms or not publically disclosed. For example, while a substantial number of legislators are also lawyers by profession, and many maintain close relationships with private law firms, these relationships are not explored in this report.

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<sup>1</sup> The reader is cautioned not assume that such monetary contributions are indicative of a *quid pro quo* arrangement between the contributor and the elected official.

## Summary of Findings:

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*Between January 1, 2006 and June 30, 2012:*

- The two trial lawyer special interest groups, the New York State Trial Lawyers Association (NYSTLA) and New York Academy of Trial Lawyers (NYATL), spent **\$6,338,728** lobbying New York elected officials , an average of **\$1,152,496 per calendar year**

*Between January 1, 2006 and November 29, 2012:*

- Trial lawyers as a whole made **\$14,658,164** in political contributions to state candidates, including:
  - o **\$6,457,613** from NYSTLA and NYATL political action committees
  - o **\$8,200,551** from individual trial lawyers and law firms associated with NYSTLA and NYATL
- Total political contributions by the NYSTLA and NYATL PACs has **increased 90%**

*During the most recent legislative session (2011-2012), NYSTLA, the largest trial lawyer special interest group in New York, contributed to the campaigns of:*

- **77%** of all the members of the legislature, including:
  - o **94%** of the Senate
  - o **69%** of the Assembly

*During the 2011-2012 session, NYSTLA contributed the maximum legal amount<sup>1</sup> to:*

- **27%** of all the members of the legislature, including:
  - o **35%** of the Senate
  - o **23%** of the Assembly

*During the 2012 legislative election, trial lawyers contributed **\$2,996,614** to political campaigns, including:*

- **\$1,958,568** by the NYSTLA and NYATL PACs
- **\$1,038,046** by individual lawyers and law firms associated with NYSTLA and NYATL

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<sup>1</sup> Senate: \$10,300/General election plus \$6,500/primary election;  
Assembly: \$4,100/General election plus \$4,100/primary election

- **77%** of successful candidates received campaign contributions from NYSTLA<sup>1</sup>
- **33%** of successful candidates received the maximum contribution allowable by law from NYSTLA

*During the most recent (2006-2010) election cycle for statewide offices, trial lawyers as a whole:*

- Contributed **\$685,782** to gubernatorial candidates
- Contributed **\$288,825** to Attorney General candidates
- Contributed **\$50,170** to Comptroller candidates

## Methodology

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### Sources

Data for this report was aggregated using publically reported data. Figures for lobbying expenditures were obtained from the Joint Commission on Public Ethics (JCOPE). Totals for campaign contributions were calculated using New York State Board of Elections campaign finance disclosure reports.

Total *lobbying* dollars were calculated as the sum total of all “reportable lobbying expenses” and “reportable lobbying compensation” reported on the JCOPE Client Semi-Annual Reports of the New York State Trial Lawyers Association and the New York State Academy of Trial Lawyers. At the time of writing, lobbying reports for NYSTLA and NYATL are only available through June 30, 2012; therefore, lobbying expenses are analyzed over a 5.5 year time period.

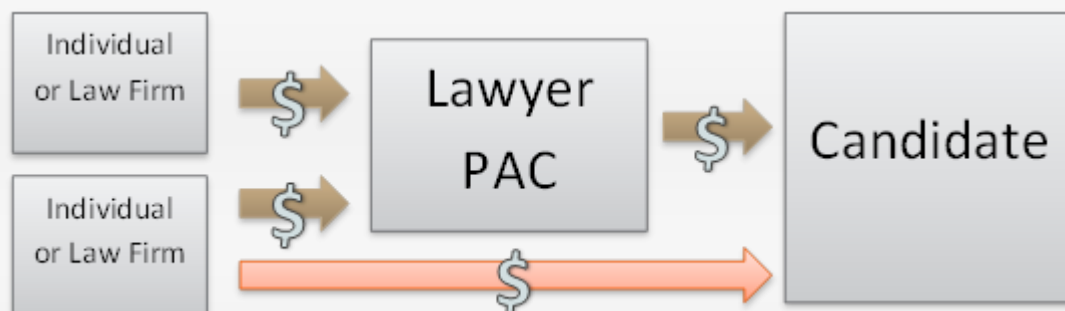
Total trial lawyer PAC *campaign contributions* were calculated as the sum total of all campaign contributions to candidates by the two trial lawyer political action committees, LAW PAC and ATL PAC. In terms of total dollar contributions, LAW PAC is the dominant committee by an overwhelming margin. In the numerous cases where ATL PAC did not make political contributions, only contributions by LAW PAC were analyzed.

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<sup>1</sup> At the time of publication, the race for the 46<sup>th</sup> Senate District remains undecided. However, this does not impact the final percentage as both candidates have received campaign contributions from NYSTLA.



Contributions by law firms and lawyers were calculated by aggregating the direct political contributions made by contributors to LAW PAC and ATL PAC. This process of reverse engineering contribution data is detailed in the graphic below, with the orange arrow representing the contributions identified in this component.



## Findings

### Lobbying

Aggregate reported lobbying expenses for the New York State Trial Lawyers Association and New York State Academy of Trial Lawyers between January 2006 and June 30, 2012 totaled **\$6,338,728, an average of \$1,152,496 per calendar year**. Lobbying expenditures were higher during legislative session (typically January-June), but annual spending on average remained relatively flat.

### Campaign Contributions

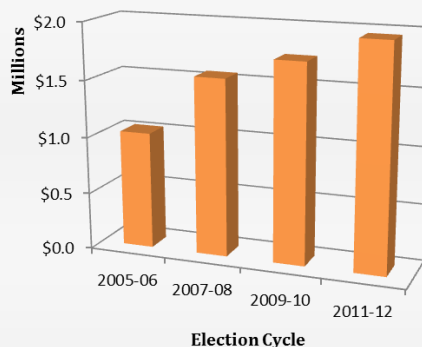
Aggregate campaign contributions by LAW PAC and ATL PAC between January 1, 2006 and November 29, 2012 totaled **\$6,457,613**.

During the same period, contributions to individual candidates by law firms and individual lawyers associated with NYSTLA and NYATL totaled **\$8,200,551**.

Between 2006 and 2012, campaign contributions by the New York State Trial Lawyers Association **increased by 90%**.

During the 2011-12 legislative election cycle, LAW PAC contributed **\$1,958,568** to political campaigns.

**NYS Trial Lawyers  
Campaign Contributions**



## Exploring the Influence

### Overview

This section explores, to the extent possible, the recipients of trial lawyer money. Lobbying expenditures are not attributed to individual elected officials - only campaign contributions have traceable beneficiaries.<sup>1</sup> Therefore, this analysis focuses on campaign contributions by PACs and individual law firms and lawyers.

### Executive Branch

New York's four elected executive branch positions – Governor, Lieutenant Governor, Attorney General, and Comptroller – serve four year terms and are not subject to term limits. Because only the 2006-2010 election cycle falls fully within this report's time period<sup>2</sup>, it is the primary focus of this analysis.

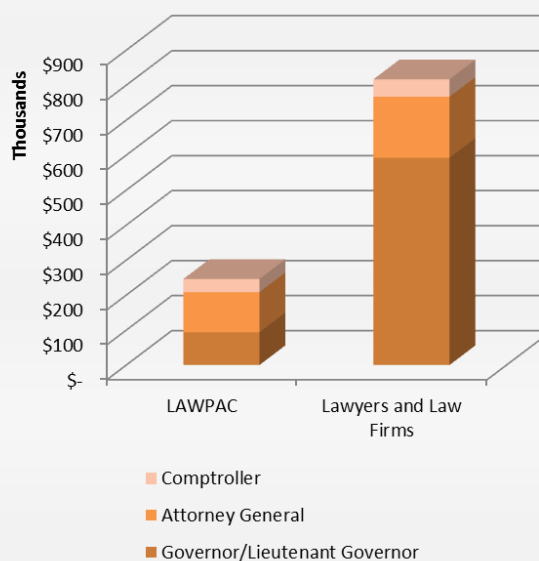
#### *Governor/Lieutenant Governor*

During the 2010 gubernatorial election, LAWPAC contributed a total of **\$93,700** to two Democratic candidates. Individual lawyers and law firms affiliated with NYSTLA and NYATL contributed **\$592,082**.

#### *Attorney General*

During the 2010 Attorney General election, LAWPAC contributed a total of **\$104,500** to three Democratic candidates and **\$10,000** to one Republican candidate. Individual lawyers and law firms affiliated with NYSTLA and NYATL contributed **\$174,325**.

### Trial Lawyer Contributions to Executive Branch Candidates 2006-2010



<sup>1</sup> Lobbying reports disclose which bodies the organization has lobbied, and the number or description of any specific legislation or regulation lobbied. Between 2006 and 2102, both NYSTLA and NYATL reported that they lobbied the Governor and both houses of the state legislature.

<sup>2</sup> While this report includes data from 2006, it does not include campaign finance records from 2003-2005, which would be necessary construct a complete picture of the 2006 statewide election. Moreover, the 2014 elections are sufficiently distant at the time of writing so as to prevent any meaningful analysis of campaign finance data. However, preliminary records indicate that NYSTLA has already begun funding several 2014 campaigns.



### *Comptroller*

During the 2010 Comptroller election, LAW PAC contributed a total of **\$37,800** to one Democratic candidate. Individual lawyers and law firms affiliated with NYSTLA and NYATL contributed **\$50,170** in aggregate.

### **Party Committees**

In addition to contributing to campaigns directly, NYSTLA also supports candidates by making contributions to party committees. These committees may receive up to \$102,300 annually<sup>1</sup> per individual or partnership, and up to \$5,000 annually from a corporation, and may make unlimited contributions to candidates. Moreover, party committees may operate “housekeeping” accounts which are permitted to receive unlimited contributions, but may only be used for general operating expenses. Between 2006 and 2012, LAW PAC made substantial contributions to party committees, frequently reaching the legal maximum. LAW PAC did not make contributions to housekeeping accounts during this time period.

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#### *Contributions by LAW PAC to State Party Committees*

Year	Democratic Assembly Campaign Committee	Democratic Senate Campaign Committee	Senate Republican Campaign Committee	Republican Assembly Campaign Committee	Grand Total
2006	\$84,400✓	-	\$84,400✓	\$19,000	<b>\$190,300</b>
2007	\$94,200✓	-	\$94,200✓	\$8,500	<b>\$196,900</b>
2008	\$94,200✓	\$50,000	\$94,200✓	\$20,000	<b>\$258,400</b>
2009	\$94,200✓	\$94,200✓	\$50,000	\$6,000	<b>\$239,400</b>
2010	\$94,200✓	\$94,200✓	\$94,200✓	\$18,500	<b>\$275,200</b>
2011	\$102,300✓	\$70,000	\$100,000	\$23,200	<b>\$295,500</b>
2012	\$102,300✓	\$75,000	\$102,300✓	\$26,000	<b>\$252,300</b>
Total	<b>\$665,800</b>	<b>\$383,400</b>	<b>\$619,300</b>	<b>\$121,200</b>	<b>\$1,708,000</b>

✓ Indicates maximum contribution allowable by law.

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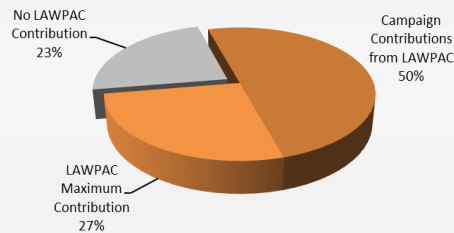
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<sup>1</sup> 2012 limit. Limits vary by year.

## The Legislature

Much of the New York State Trial Lawyers Association's campaign contributions are directed to members of the legislature. During the 2011-12 legislative session, **77% of elected state legislators received campaign contributions from LAW PAC, totaling \$775,475**. Fully **27%** of all legislators received the largest contribution allowable by law.

### New York State Legislature 2011-2012 Session



During the 2012 elections, LAW PAC made contributions to **77% of successful candidates**, and **contributed the maximum legal amount to 33% of candidates, totaling \$871,599**.

## Legislative Committees

All legislation must be reviewed by the appropriate legislative committees before being considered for a vote by the full house. Our analysis of campaign finance data reveals that NYSTLA makes substantial campaign contributions to the committees which consider legislation relating to civil law (Judiciary and Codes, in the Senate and Assembly), as well as the powerful Rules and Finance/Ways and Means committees. The graphics below highlight the extent of these contributions for the respective committees during the 2011-2012 session.

### Rules Committees

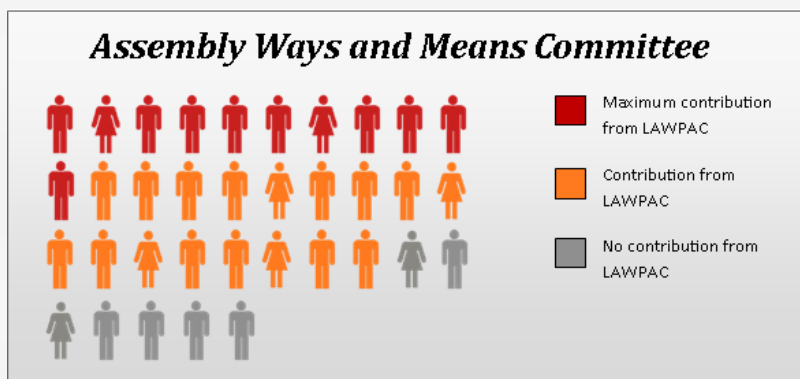
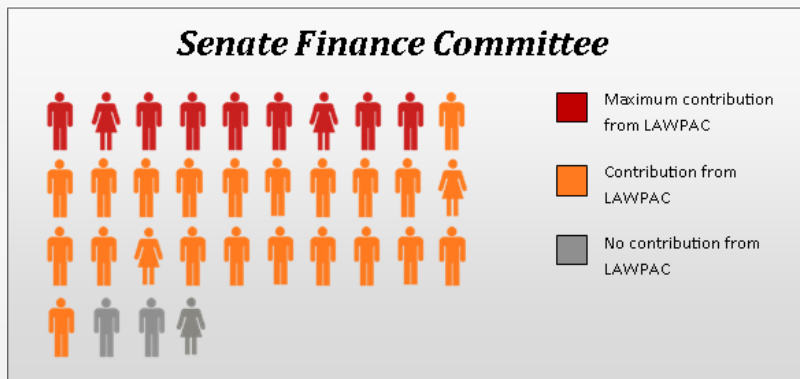
The Rules committees are chaired by leaders of each house, the Senate President Pro Tempore and the Assembly Speaker respectively, and are populated by the senior members of each party. The Rules committees have broad influence over the flow and passage of legislation. Accordingly, a majority, or in some cases the totality, of the members of the Rules committees receive campaign contributions from NYSTLA.





### ***Finance Committees***

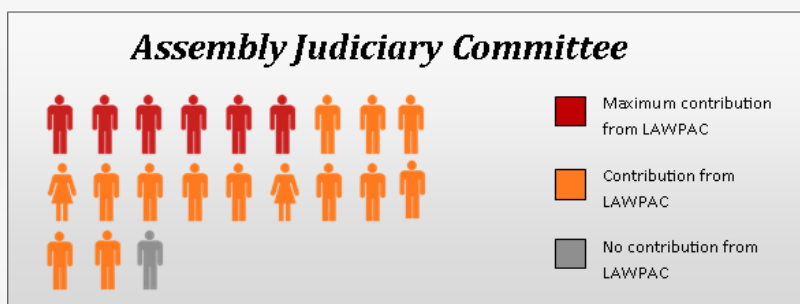
The Senate Finance Committee, and its equivalent, the Assembly Ways and Means Committee, are responsible for approving all legislation which has a fiscal impact on the state. These committees are also responsible for reviewing the Governor's Executive Budget and proposing changes. The Finance and Ways and Means committees are chaired by senior members, and like the Rules committees, receive substantial contributions from NYSTLA.



### ***Judiciary Committees***

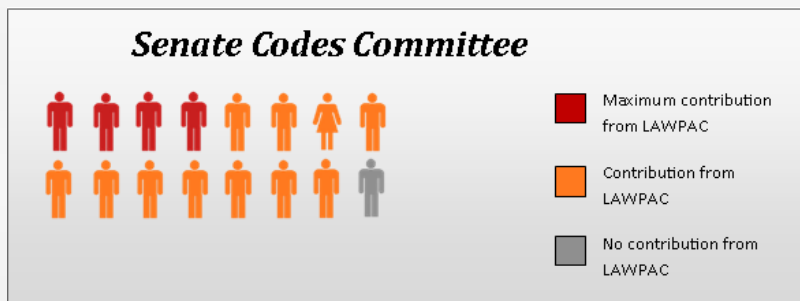
The Judiciary committees are responsible for considering legislation which affects the civil practice law and rules. As these committees focus on legislation which directly

impacts the practice of law, members of these committees frequently receive campaign contributions from NYSTLA.



### ***Codes Committees***

The Codes committees have broad jurisdiction over legislation which affects the criminal code. These committees also occasionally consider legislation with civil impacts as well.



### Lawyers and Law Firms

While the New York State Trial Lawyers Association is a major political contributor, the aggregate political spending of individual trial lawyers and law firms is greater still. Between January 1, 2006 and November 29, 2012, the individual lawyers and law firms that supported NYSTLA and NYATL made **\$8,200,551 in political contributions**, independent of contributions to LAWPAC and ATL PAC - **an average of \$1,366,758 annually**.

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#### Top Spending Firms 2006-2012

Firm	Total Contributions	Practice Areas
Gair, Gair, Conason, Steigman, Mackauf, Bloom & Rubinowitz	\$510,950	Medical malpractice, personal injury
Duffy & Duffy	\$397,575	Medical malpractice, personal injury
Kramer, Dillof, Livingston & Moore	\$361,500	Medical malpractice, personal injury
Forchelli, Curto, Deegan, Schwartz, Mineo, & Terrana, LLP	\$171,099	Tax, commercial, real estate, finance, labor/employment
Sacks & Sacks, LLP	\$169,400	Construction injury, personal injury, product liability
Lippes, Mathias, Wexler & Friedman, LLP	\$142,840	Business, financial, estate, dispute resolution
Weitz & Luxenberg PC	\$92,500	Asbestos, class action, personal injury, medical malpractice
Jacob D. Fuchsberg Law Firm, LLP	\$80,586	Medical malpractice, product liability, personal injury
Rappaport, Glass, Greene & Levine & Zullo, LLP	\$54,320	Medical malpractice, personal injury
Kreindler & Kreindler, LLP	\$45,000	Medical malpractice, aviation/transportation accident, product liability

### Top Spending Trial Lawyers 2006-2012

Lawyer	Total Contributions	Practice Areas	Firm
Joseph Belluck	\$443,350	<i>Asbestos/mesothelioma, pharmaceutical</i>	Belluck & Fox, LLP
Anthony Xanthakis	\$347,775	<i>Product liability, dental malpractice, construction accident</i>	Galvano & Xanthakis
Peter Johnson	\$180,000	<i>Personal injury, wrongful death, corporate dispute</i>	Leahy & Johnson, P.C.
Joseph Awad	\$130,316	<i>Medical malpractice, personal injury</i>	Silberstein, Awad & Miklos, P.C.
Robert Silver	\$108,460	<i>Litigation, antitrust, corporate, intellectual property</i>	Boies, Schiller & Flexner, LLP
Martin Edelman	\$106,257	<i>Medical malpractice, product liability, personal injury</i>	Edelman & Edelman
Leonard Schwartz	\$95,145	<i>Personal injury, medical malpractice</i>	Oliveri & Schwartz, P.C.
Frances Letro	\$92,348	<i>Personal injury, medical malpractice, construction injury</i>	Frances M. Letro, Attorneys at Law
Eli Basch	\$90,719	<i>Personal injury, medical malpractice</i>	Basch & Keegan
Marc Grossman	\$78,000	<i>Personal injury, class action</i>	Sanders, Sanders, Block, Voycik, Viener & Grossman, P.C.



## Conclusions

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The findings in this report provide insight into the monetary inputs of trial lawyers into state level politics in New York. The data indicates the following:

- Trial lawyers are a highly influential special interest group in state level politics, as evidenced by the high overall level of spending on lobbying and campaign contributions.
- Political contributions by the trial lawyer political action committees are increasing at a dramatic rate - 90% over six years.
- Aggregating individual contributions by NYSTLA and NYATL contributors reveals that the trial lawyer political influence is far greater than is commonly reported – these contributions more than double the total monetary contributions by trial lawyers and law firms.
- NYSTLA has sufficient resources to seek influence in both a targeted manner, through contributions to key decision makers, leaders, and legislative committees, as well as broad manner, through contributions to a majority of the legislature as a whole.

The purpose of this report is to examine the monetary influence of trial lawyers on state-level politics. While the report does not explore the outcomes of that influence, the scale and scope of the spending shows that trial lawyers as a whole expend considerable resources to promote their agenda of expanding liability. Many recent efforts to reform New York's civil justice system have stalled in Albany, and the political and lobbying spending of the trial lawyers outlined in this report is unquestionably a major obstacle to reform.