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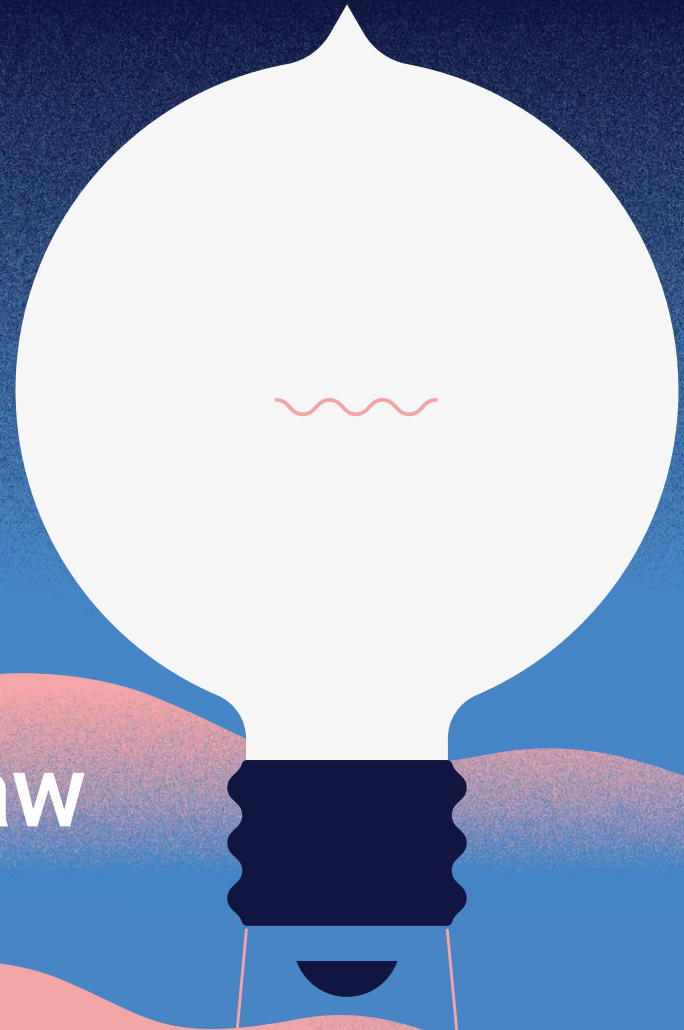
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ALSO IN THIS ISSUE

Thermo-Nuclear Verdicts,
Causes and Strategies to
Minimize Trial Risk

AND MORE!



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By Denis F. Alia and
Valerie D. Dubinsky

“At trial, defense counsel would benefit from focusing on building trust with the jurors, simplifying complex legal theories, and anchoring to more realistic figures to juxtapose plaintiffs’ demand for damages.”

Thermo-Nuclear Verdicts, Causes and Strategies to Minimize Trial Risk

Defined as a jury award in excess of \$10 million, thermo-nuclear verdicts have been reshaping civil litigation across the country for the last several years. (Thermo-nuclear verdicts refer to “nuclear verdicts,” a term which has been trademarked. I Registered The Term Nuclear Verdicts – Here’s Why, Tyson & Mendes). Jurors’ emotions, complex legal issues, the rise of digital currency, and the growing distrust towards large corporations have been key factors in understanding a jury’s propensity to award such colossal amounts. <https://institute-forlegalreform.com/wp-content/uploads/2024/05/ILR-May-2024-Nuclear-Verdicts-Study.pdf>; What Is a Nuclear Verdict? - LegalClarity. At trial, defense counsel would benefit from focusing on building trust with the jurors, simplifying complex legal theories, and anchoring to more realistic figures to juxtapose plaintiffs’ demand for damages.

THE EMERGENCE OF THERMO-NU-

CLEAR VERDICTS: TRENDS AND DATA

Approximately half of the thermo-nuclear verdicts in the United States have been awarded in California, Florida, New York, and Texas. <https://instituteforlegalreform.com/wp-content/uploads/2024/05/ILR-May-2024-Nuclear-Verdicts-Study.pdf>. Between 2013 and 2022, the average product liability verdict was \$25 million, with a record high of \$36 million in product liability cases. Id. Notably, nine out of ten verdicts were reportedly decided in state court and involved product liability, auto accidents, medical and premises liability cases. Id. After a decline in court activity during COVID-19, verdict amounts skyrocketed into the billions, marking the beginning of a new era of thermo-nuclear verdicts.



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RECENT LANDMARK VERDICTS

The largest jury verdict for a single individual in over a decade of litigation resulted from a Maryland jury that awarded \$1.56 billion to a plaintiff in December of 2025. <https://www.claimsjournal.com/news/national/2025/12/23/334732.htm>. The lawsuit stemmed from the plaintiff's use of Johnson & Johnson's baby powder, resulting in the plaintiff suffering from mesothelioma. The verdict came shortly after a Los Angeles, California jury awarded plaintiffs a \$966 million verdict against Johnson & Johnson in October of 2025. https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html.

Several months after the Maryland decision, the judge ruled that evidence did not support the jury's punitive damages award, noting that "[w]ithout having clearly and convincingly established that [Johnson & Johnson] had such knowledge (and failed to act), malice cannot be found." https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html. The court cited evidence that there were ample test results demonstrating that the Johnson Baby Powder did not contain asbestos and noted that the studies linking asbestos to the baby powder could not be replicated. https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html.

[efcf2f455622.html](https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html)

In April of 2026, the Supreme Judicial Court of Massachusetts remitted a punitive damages award from \$1 billion to \$56 million against a tobacco company. [Fontaine v. Philip Morris USA Inc. | Cases | Massachusetts | West-law Advantage](https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html) (Fontaine v. Philip Morris USA Inc., 497 Mass. 436, 277 N.E.3d 585 (2026)). During the jury trial, the jury was informed that Philip Morris was valued at \$3 billion and made \$20 million in profit every day. <https://www.courthousenews.com/massachusetts-high-court-sounds-sympathetic-to-massive-tobacco-verdict/> Although the Court upheld the lower court's decision holding that a tobacco company was liable for the wrongful death of a lifelong cigarette smoker, it found that the punitive award was excessive. <https://caselaw.findlaw.com/court/ma-supreme-judicial-court/118306951.html>.

In February of 2026, the Florida Southern District Court rejected Tesla's request to overturn a \$243 million jury verdict decided in 2025. <https://www.reuters.com/world/us-judge-upholds-243-million-verdict-against-tesla-over-fatal-autopilot-crash-2026-02-20/> In 2019, when an operator of a Tesla Model S drove through an intersection at 62 miles per hour while bending down to reach for his dropped phone, he collided with an SUV when two individuals were standing beside the vehicle. The accident resulted in the death of a young female and severe injuries to the female's boyfriend. The jury determined that Tesla was 33% responsible for the accident due to the use of Enhanced Autopilot. In addition to cruise control and lane assistance, Enhanced Autopilot

can navigate, switch lanes, and park without steering input. [Tesla Autopilot vs Enhanced Autopilot vs FSD: A Complete 2025/26 Guide](https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html). The operator of the vehicle believed that the Enhanced Autopilot feature would automatically stop the vehicle if there was a barrier in its path. [Tesla appeals \\$243 million verdict in fatal Autopilot crash suit](https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html). The jury returned a verdict of \$329 million in damages, of which \$242.5 million was to be paid by Tesla. [Tesla appeals \\$243 million verdict in fatal Autopilot crash suit](https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html)

BEHIND THE SCENES: FACTORS GIVING RISE TO THERMO-NUCLEAR VERDICTS

Various factors, both inside and outside the courtroom, including the use of the "reptile theory," distrust towards corporations, and the digitization of money have led to the rise of thermo-nuclear verdicts.

REPTILE THEORY

"Reptile" theory is utilized to convince jurors that a certain concept is dangerous and that, to alleviate the danger, a high award should be given to the plaintiffs while also punishing the defendants for their prior acts. https://www.legalnewsline.com/south-california-record/l-a-judge-tosses-950m-verdict-in-j-j-talc-trial-no-proof-to-back/article_1c70e63c-3af8-480a-9203-efcf2f455622.html

With the decreasing frequency with which individuals use cash, it becomes more challenging to conceptualize the value of large sums of money.

thomsonreuters.com/blog/what-attorneys-need-to-know-about-reptile-theory/#what-is-the-reptile-theory. ("Reptile" theory was coined in 2009 by David Ball, a former theatrical director, and Don Kennan, a plaintiffs' side attorney). The reptile theory invokes a "fight-or-flight" response, forcing jurors to act on their first instinct. [What Causes Nuclear Verdicts? - USLAW](#). By incorporating the reptile theory into plaintiffs' strategy, jurors are placed in plaintiff's shoes, provoking an empathetic response and a desire to hold the defendant accountable for not only actual harm, but also the possibility of harm. <https://columbialawreview.org/content/shadow-tort-law-lessons-from-the-reptile/>. By encouraging jurors to compare themselves to the injured party, plaintiffs' counsels effectively use the reptile theory to encourage astronomical verdicts.

ANCHORING

In the courtroom, plaintiffs' counsels may intentionally declare inflated damage amounts during opening statements and closing arguments, forcing jurors to fixate on the first number they hear. <https://www.ama-assn.org/health-care-advocacy/judicial-advocacy/why-anchoring-practices-push-jury-awards-must-end>. In a strategy known as "anchoring," counsel present arbitrary numbers to jurors, who in turn rely on the first piece of numerical information they are presented with, referred to as the "anchor." With anchoring, the juror's perspective is shifted such that an exorbitant number is no longer extraordinary, but rather an ordinary amount required to deliver a reasonable punishment. <https://atra.org/issue/anchoring/>.

DISTRUST IN CORPORATIONS

Beyond the courtroom, a cultural shift in how Americans view large corporations has contributed to the rise of thermo-nuclear verdicts. While once considered essential players in the economy, many now believe that corporations influence politics, manipulate government agencies, and prioritize profit over benefit to the public. <https://reputationpartners.com/the-publics-distrust-of-big-business-a-growing-crisis-and-a-call-to-action/>. [What Causes Nuclear Verdicts? - USLAW](#). From 1999 to 2024, confidence in corporations dropped from 30% to 16%. <https://www.bloomberg.com/graphics/2024-opinion-how-big-business-lost-americans-trust/>. Most significantly, Americans lost the belief that working jobs within corporate America can provide enough to cover bills and eventually save to purchase a house. <https://www.bloomberg.com/graphics/2024-opinion-how-big-business-lost-americans-trust/>. Between the opioid crisis and the 2008 Great Recession, confidence in corporations has eroded. In conjunction with the reptile theory, jurors are primed to accept the narrative that corporations are responsible for the harm and should be punished as a result. <https://reputationpartners.com/the-publics-distrust-of-big-business-a-growing-crisis-and-a-call-to-action/>.

DIGITIZATION OF MONEY

The awards of large verdict amounts are further aggravated by the digitization of money through the shift from physical to digital currency. With the decreasing frequency with which individuals use cash, it becomes more challenging to conceptualize the value of

large sums of money. By using credit cards and tapping phones to pay, the perception of money is distorted. *How Technology Is Changing How We Value Money – The Harrow Group*. Younger jurors are less likely to be familiar with cash and can be more easily influenced by billboards advertising large verdicts. Jurors are also influenced by exposure to corporate valuations reaching into the billions. In the jury room, jurors have less psychological resistance to a multi-million-dollar verdict against a corporation, particularly when that corporation's earnings substantially exceed the size of the award.

Using strategies such as the reptile theory to evoke a sympathetic response in favor of the plaintiff, anchoring around large sums of money, taking advantage of the growing distrust in corporations, and benefiting from the digitization of money, attorneys for plaintiffs have steered jurors into awarding thermo-nuclear verdicts in an effort to sympathize with the plaintiff and punish the corporation.

STRATEGIES TO MINIMIZE THE RISK OF A THERMO-NUCLEAR VERDICT

To minimize the risk of thermo-nuclear verdicts, defense counsel would benefit from focusing on strategies aimed at connecting with jurors, simplifying legal issues, and counter-anchoring.

Building trust with jurors would assist in leading the factfinder to believe in a defendant's position and feel confident in the direction of the company. By presenting a credible story that aligns with the jurors' background or view of the world, a defendant is more likely to encounter an open-minded jury less prone to manipulation

and focused on finding the truth. Accepting responsibility could also lead the jury to believe that the defendant cares about the community and its employees. Clear and authentic communication with jurors would further advance a defendant's strategy at trial. ["3 Principles For Minimizing The Risk Of A Nuclear Verdict," Law360, February 14, 2024. | News & Insights | Alston & Bird.](#)

The presentation of complex factual and legal theories in a digestible manner is also crucial in winning over a jury. Translating challenging terminology and utilizing analogies allows a juror to easily interpret concepts by connecting intricate legal theories to their own personal lives and analogizing to situations they have experienced. In addition, visuals such as timelines, charts, and photographs can leave a lasting imprint in the jurors' minds, providing a memorable image they can mentally recall during deliberations.

Anchoring would also benefit a defendant by presenting a realistic figure to disarm plaintiffs' demands. By providing a counter-anchor rather than ignoring or attacking plaintiff's demand for damages, defendants would be able to invoke a more positive response from jurors. In an experiment using mock jurors in a medical malpractice trial, University of Iowa researchers attempted to assess the impact of these three separate types of responses: 1) counter-anchoring; 2) ignoring, or; 3) attacking plaintiff's demand. Specifically, researchers acting as plaintiff's counsel demanded either \$250,000 or \$5 million in non-economic damages. In response, researchers acting as defense counsel either: 1) responded by

providing a counter-anchor of a lesser value than that requested by plaintiff; 2) ignored the number presented by the plaintiff, or; 3) attacked plaintiff's demand for damages. The study proved that the most impactful strategy was countering plaintiff's \$5 million demand, resulting in reduced damages. Statistically, the counter-anchor reduced damages by 41% in contrast to the strategy of attacking plaintiff's demand. <https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2023-02/ILR-101-2-Campbell.pdf>. By implementing strategies to counter plaintiff's disproportional demands, defense counsel can influence jurors to award more appropriate damage amounts.

CONCLUSION

Thermo-nuclear verdicts continue to be awarded for plaintiffs throughout the country. By understanding plaintiffs' strategies, defense counsel would benefit from attempting to resonate with jurors, simplify complex legal theories, and counter-anchor large demands.



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