



TURNING THE TIDE ON LAWSUIT ABUSE

Critics of the American tort system often point to particular local and state courts that draw a disproportionate share of lawsuits because of their seemingly plaintiff-friendly nature. Sometimes called “magnet jurisdictions” or “Judicial Hellholes®,” these courts are seen as so unfavorable to out-of-state manufacturers that plaintiff lawyers go to great lengths to bring their cases there. When the Founding Fathers first established our judicial system, they anticipated just this sort of potential for bias against out-of-state defendants and created a way for out-of-state parties to escape state court “home cooking.”

To remedy this problem, the Framers created “diversity jurisdiction,” giving defendants the option to move a case from state court to a more neutral federal court if they are from a different state as the plaintiff. Unfortunately, a later court decision offering virtually no rationale substantially undermined this notion—creating a requirement for “complete diversity” so that cases could only be bumped from state court to federal court if every plaintiff and every defendant were from different states. That made it easy for plaintiffs who wanted their cases to be heard in a particular court to thwart federal court access by naming a local party as a defendant. For example, local retailers and distributors are often named as defendants in major product liability cases involving large, out-of-state manufacturers just to keep the case in the Judicial Hellhole® of choice.

Recognizing the great value in the original notion of minimal diversity that the Founding Fathers enshrined in Article III of the U.S. Constitution, the National Association of Manufacturers has convened a working group to build the case for restoring the original intent of federal diversity jurisdiction. By restoring a standard of minimal diversity—i.e., offering the option of federal court if even one plaintiff and one defendant are from different states—we could make a giant leap forward in reversing the decades of lawsuit abuse that have led the United States to have the most expensive—and scorned—tort system in the world.