

# Denver Law Review

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Volume 64  
Issue 4 *Tort Reform Symposium Issue*

Article 2

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February 2021

## Foreword

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### Recommended Citation

Robert J. Bricmont, Foreword, 64 Denv. U. L. Rev. [xxv] (1988).

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## FOREWORD

It is difficult to recall a debate in the civil law which has created the divisiveness and the intensity of purpose that tort reform is causing. From newspaper editorials in virtually every jurisdiction, to the statements of experts in a variety of fields, opinions on the subject abound. For many reasons this national colloquy is confusing. The legal principles are challenging and the unavailability of reliable information makes precise analysis problematical. The debate is further complicated by competing interest groups — the plaintiffs' and defense bars, insurers and insureds, tortfeasors and tort victims, manufacturers, health care providers, business coalitions, and other interested organizations — each of which has a different perspective and a specific agenda. Armed with their own statistics and surveys, these groups lobby the legislatures and voice their particular concerns and demands. Frequently their proposals are perplexing to lawmakers, many of whom have their own differences of opinion where these technical issues are concerned. In jurisdictions where a legislative consensus is eventually reached, and tort reform proposals are enacted, the consequences affect uncounted activities, institutions, and people. Such pervasive results, whether foreseen or unexpected, substantially alter various aspects of American law and life.

In some respects, tort reform can be viewed as a grand social science experiment. Proponents of tort reform, the "theoreticians," formulate their various hypotheses about what is wrong, and about what kinds of reform are necessary to correct it. When their proposals become law, the experiment begins. Those jurisdictions which forego tort reform may serve, in the clinical sense, as "control" groups. Well into the next decade, these control jurisdictions will no doubt be analyzed and measured against those jurisdictions where tort reform has been enacted. Future legislators may choose to alter the experiment in order to fine-tune the reformation process. Others may advocate abandoning the experiment altogether. In the final analysis, however, the efficacy of tort reform will probably be determined by the alleged barometers of litigiousness — court filings, docket congestion, and median verdict amounts, by the insurance industry's improved ability to provide liability coverage at a reasonable cost, and finally, by whether legitimate tort claimants can obtain just compensation.

Until then, the debate will continue.

This Symposium represents our attempt to contribute to this vital public policy discussion. While presenting commentary which reflects differing tort reform perspectives, we have strived to avoid the pitfalls of the national debate. No absolute answers are presented; no quick fixes are proposed. Instead, the important issues are addressed and illuminated, opposing views are vigorously represented, and innovative ap-

proaches are put forward. It is our hope that this approach will assist the scholar, the professor, the practitioner, the legislator, and the jurist, in their efforts to achieve an understanding, if not a resolution, of the tort reform debate.

*Robert J. Bricmont, Jr.*  
Symposium Editor