Total Justice and Tort Tales: Exploring the "Systemic Public Legitimacy" of Everyday Tort Claims for Workplace Injuries

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Abstract. Despite some retrenchment, the litigation state remains alive and well. All this litigation has engendered intense cultural debates over whether increased lawsuits represent a rising tide of justice or a flood of frivolous and wasteful claims. Tort law has been at the center of these debates for decades, standing at the fault line between "total justice" and "tort tale" narratives about the benefits and perils of litigation. In this paper, we take a closer look at this debate at two levels. Conceptually, we frame it in terms of "systemic public legitimacy," which stems from attitudes towards lawsuits versus other types of claims. Empirically, we test this debate using a survey experiment based on claims for workplace injuries. We find that our subjects held a qualified total justice view of tort suits, favoring the filing of claims over doing nothing or asking family members for help and seeing lawsuits as equally appropriate as filing a government claim or hiring a lawyer to send a demand letter. Moreover, our subjects' views on litigation were not fixed. When told that the claimant had unsuccessfully tried other remedies before turning to the courts, they indicated that the lawsuit was more justified. Indeed, the more remedies exhausted prior to litigation, the more justifiable the lawsuit seemed, even though repeated denials of a claim might indicate its substantive weakness. The bottom line, we contend, is that systemic public legitimacy not only reflects underlying attitudes towards litigation but also how claimants use their right to sue—a point that could be useful to practitioners and advocates as they weigh their claiming options.

I. Introduction

Law, courts, and litigation remain central to American politics and policy (Keck 2014; Nolette 2015; Kagan 2019), despite some retrenchment (Staszak 2015; Burbank and Farhang 2017). Courts continue to take the lead on contentious issues (Lemley 2022; Brown and Epstein 2022) and groups on the left and right keep turning to them to make policy (Kagan 2019; Keck 2014). Even a dramatic reversal of rights at the federal level, like overturning *Roe v. Wade*, does not always end litigation; instead, it can trigger new battles in state courts (Zinerke 2022). As a result, while the number of lawsuits (and their ideological bent) may vary across policy areas, the "litigation state" endures (Farhang 2010; Melnick 2018; Kagan 2019).

All this litigation has engendered competing narratives about "systemic public legitimacy": attitudes towards the appropriateness of lawsuits versus other claiming options. The tort system lies at the epicenter of this debate. "Total justice" narratives depict tort in heroic terms. The gist is that, whereas Americans once resigned themselves to injuries and "lumped them," they now believe that government can and should address pervasive social problems, including injuries from harmful products, hazardous workplaces, and negligence (Friedman 2019). As Kagan explains, while liberals and conservatives disagree on how to prioritize claims for total justice, the "key notion is that fatalism has declined; solutions are possible. Hence government and law ought to be responsive to pressing problems" (2019:46).

The strongest version of this narrative identifies litigation as the most legitimate response to demands for total justice. In the words of Judith Shklar, "law aims at justice, while politics looks only to expediency. The former is neutral and objective, the latter the uncontrolled child of competing interests and ideologies. Justice is not only the policy of legalism; it is a policy superior to and unlike any other" (1964:111). Movies like *Erin Brockovich* and *A Civil Action*

encapsulate this view, depicting entrepreneurial lawyers confronting reckless corporations, exposing decades of wrongdoing, and providing a measure of justice (and some compensation) to overlooked victims. From this perspective, the tort system is an integral and legitimate part of the U.S. social safety net.

"Tort tales" lie at the other end of the narrative spectrum (Haltom and McCann 2004). They portray the U.S. as a "nation of victims" (Ramaswamy 2022) and litigation as a regrettable byproduct of a "culture of complaint" (Hughes 1993). The result, according to this view, has been the "death of common sense" and the erosion of the bedrock American values of grit and self-reliance (Howard 2011; Ramaswamy 2022), as grasping plaintiffs and trigger-happy lawyers rush to the courthouse to cash in their "litigation lottery tickets" (Haltom and McCann 2004; Engel 1984). These tropes have been part of the story of litigation in the U.S. for more than 50 years, showing up in the views of citizens in a small midwestern framing community (as documented in Engel's classic ethnography, "The Oven Bird's Song" (1984)) to Pixar characters in the opening of *The Incredibles*, which uses a faux newsreel to tell how mounting lawsuits forced superheroes into hiding. In this account, a flood of lawsuits by whiny plaintiffs seeking damages arising from being rescued— "you didn't save my life, you ruined my death!"—have robbed society of its superpowers.

The lead-in to *The Incredibles* can, of course, be seen as satire. But tort tales have become deeply woven into media accounts of the tort system. In *Distorting the Law* (2004), Haltom and McCann carefully document mass media's reliance on dramatic but misleading anecdotes about litigation, which lack context and exaggerate the tort system's cost, inefficiency, and arbitrariness. Specifically, in addition to providing in-depth case studies of high-profile tort tales like the erroneous coverage of the McDonald's coffee case, they reviewed 952 articles

about litigation and found 1,001 critiques. The most common were that litigation costs too much, claims are soaring, too much litigation is hurting American society, lawyers are greedy, and lawsuits are frivolous. More recent studies replicate their findings and show that media coverage of the tort system is particularly negative in comparison to other types of injury compensation regimes, such as no-fault compensation programs (Barnes and Hevron 2018, 2022; see also Daniels and Martin 2015; Coffee 2015; others). The implication is that the tort system lacks legitimacy, serving the narrow interests of lawyers and plaintiffs at the expense of society at large.

Robert Kagan's *Adversarial Legalism: The American Way of Law* (2019) suggests a mixed view, which falls between total justice and tort tale narratives. While Kagan tends to emphasize the downsides of American-style litigation— "adversarial legalism"—he repeatedly acknowledges its "two faces": one valiant, the other shadowy (2019: Chapter 2). Kagan captures this duality in his discussion of asbestos litigation, which opens his chapter on tort (2019: 148-152; see also Barnes 2011; Barnes and Burke 2015). In Kagan's telling, asbestos litigation began as a textbook example of total justice, as innovative lawyers convinced courts to recognize novel claims by asbestos injury victims, who had received inadequate compensation through existing workers' compensation programs. Over time, however, claims sky-rocketed and asbestos litigation came to represent the worst of adversarial legalism: soaring costs, unpredictable outcomes, and questionable (and at times fraudulent) claiming practices.

This varied account has its own cultural touchstones. Movies like *Michael Clayton* portray ordinary families seeking to hold multinational corporations accountable for intentionally creating public health disasters through a legal system plagued by costly delays, corrupt practices, and morally bankrupt lawyers. From this perspective, assessing the overall legitimacy

of the system is challenging. It provides needed rights and remedies but features dubious tactics and claims.

This paper probes this debate using a survey experiment that tests attitudes towards tort suits versus other remedies for workplace injuries. Overall, our subjects adopted a qualified total justice view. They strongly favored claiming over doing nothing and indicated that lawsuits were significantly more appropriate than asking family for help and on par with filing a government claim or hiring a lawyer to write a demand letter. Moreover, attitudes towards litigation were not fixed. The perceived justifiability of litigation steadily improved when the litigant exhausted other remedies before turning to the courts. Indeed, the more remedies that were tried and failed prior to filing, the more the lawsuit was seen as justifiable, even though the repeated denial of a claim may indicate its weakness, not justifiability. The implication, we contend, is that systemic public legitimacy hinges not only on attitudes towards the decision to litigate but also how parties exercise their right to sue—a point that could be useful for advocates and practitioners in weighing claiming options.

To elaborate, we begin by defining systemic public legitimacy and how it fits within the sprawling legitimacy literature. With this conceptual background in place, we discuss the nuts and bolts of our study: case selection, hypotheses, survey design, and implementation. We then discuss our findings and end with some thoughts on our study's limitations and next steps.

II. Defining System Public Legitimacy

Discussion of concepts can be dull and abstract. But the legitimacy literature encompasses multiple definitions, each with distinct theoretical underpinnings and observable implications. The result resembles a kaleidoscope, as each analytic turn causes pieces to rearrange themselves into different patterns. This complexity necessitates careful consideration

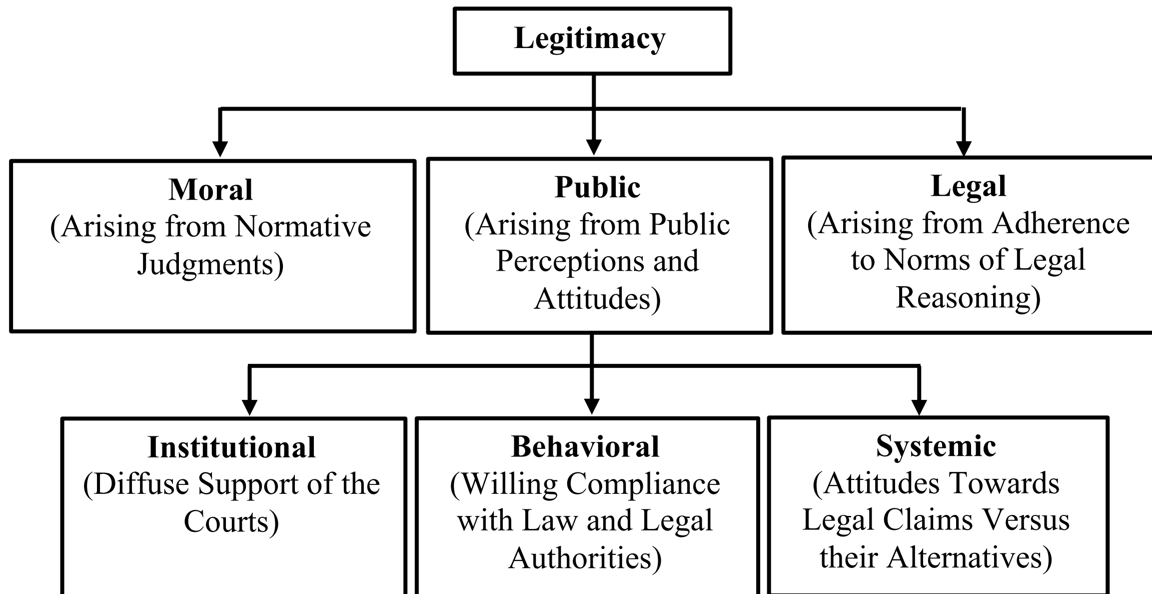
of how systemic public legitimacy differs from its counterparts, allowing us to define what it covers (and excludes).

At the most general level, Richard Fallon (2018: 21) divides legitimacy into three categories: (a) *public legitimacy*, which stems from public perceptions and attitudes;[1] (b) *moral legitimacy*, which is rooted in normative assessments; and (c) *legal legitimacy*, which derives from judges' adherence to accepted norms of legal reasoning and decision-making (see also Carter and Burke 2016; Whitehead 2014). These general types of legitimacy can be operationalized as outcomes to be explained or explanatory factors, so that legitimacy is something the law and legal systems may possess as well as confer. They can be reinforcing or in tension, as when judges sacrifice some legal legitimacy for public legitimacy by stretching precedents to reach popular results (Grove 2019; Gibson, Caldeira, and Baird 1998).

To further complicate matters, public legitimacy encompasses several subtypes: (a) *institutional public legitimacy*, which concerns public goodwill towards the courts, despite unpopular decisions, (b) *behavioral public legitimacy*, or willing compliance with legal requirements, even in the absence of coercion, instrumental benefits, or agreement with the law, and (c) *systemic public legitimacy*, meaning public attitudes toward lawsuits as opposed to other options. Figure 1 provides a conceptual overview and then each type of public legitimacy is elaborated below, beginning with institutional and behavioral public legitimacy, which are perhaps more familiar, and ending with systemic public legitimacy, the focus of this paper.

[1] Fallon uses the term "sociological legitimacy," but we prefer "public legitimacy" for several reasons. First, the label public legitimacy directly roots this type of legitimacy in public opinion. Second, "sociological legitimacy" implies an overly narrow disciplinary focus. Diverse scholars study public legitimacy, including sociologists, political scientists, social psychologists, and law and society scholars.

Figure 1. A Conceptual Overview of Legitimacy



A. Institutional Public Legitimacy

Political scientists have written extensively on institutional public legitimacy of courts, especially the U.S. Supreme Court. Following Easton (1975), these scholars distinguish "diffuse" from "specific" support. Diffuse support underlies institutional public legitimacy. It is the reservoir of public good will towards courts, which allows them to protect unpopular rights and minority interests (Gibson and Caldeira 2009, 2011; Gibson, Caldeira, and Spence 2003a, 2003b, 2005). After all, if the courts' legitimacy depended on public approval of every decision, then "a wise and prudent court would shift from emphasizing the 'minority rights' half of its democratic assignment to becoming more of an agent of 'majority rule'" (Gibson and Nelson 2015: 162). Specific support is less immediately central to institutional public legitimacy. It is public approval of the courts, which may reflect agreement with particular decisions as well as "other considerations, including satisfaction with how decisions are made, the speed and alacrity with

which they are made, how litigants are treated, how the opinion is written, and the overall context of the institution" (Gibson and Nelson 2015: 164).[2] Institutional public legitimacy matters most for the "losers" in courts, meaning those who are dissatisfied with judicial decisions but nevertheless accept them and the courts' authority (Gibson et al. 2005; Gibson, Lodge, and Woodson 2014).[3]

B. Behavioral Public Legitimacy

Behavioral public legitimacy is rooted in social psychology. It hinges on the behavior of individual citizens, or, more narrowly, their "willing compliance" or obedience to the law and legal authorities. Tom Tyler (2003, 2006, 2019) identifies two requisites for behavioral public legitimacy. First, people must feel an obligation and responsibility to defer to the law, which is distinct from fearing punishment, expecting benefits, or agreeing with legal requirements.[4] Second, they must believe authorities are acting properly, especially that the legal system

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[2] The literature on institutional public legitimacy has many twists and turns, which are beyond the scope of this paper. Several are worth noting at the margins, however. First, while analytically distinct and not always tightly correlated, specific and diffuse support are linked. As Baird explains (2001: 334), "people maintain a 'running tally' that increases with pleasing policy decisions. Over time, the running tally develops into a reservoir of good will that serves to insulate support from later disagreeable decisions" (see also Gibson, Caldeira, and Baird 1998; Gibson and Nelson 2015). Second, given this relationship, studying institutional legitimacy raises tricky measurement issues, requiring scholars to ensure measures of diffuse support are not overly tainted by elements of specific support (see Gibson and Nelson 2015). Third, recent research has raised questions about the durability of institutional legitimacy, arguing that it can be significantly and negatively affected by factors such as extra-judicial cues (Armaly 2018, 2020a; Clark and Kastellec 2015; Zilis 2017, 2021; but see Kromphardt and Salamone 2021; Nelson and Gibson 2019), ideological congruence (Bartels and Johnston 2013; Durr, Martin, and Wolbrecht 2000; but see Armaly 2020b; Gibson and Nelson 2015, 2017; Nelson and Gibson 2020), political polarization (Armaly and Lane 2023; Boddery et al. 2022; Carrington and French 2021; Glick 2023, but see Gibson and Nelson 2014; Krewson 2023; Krewson and Schroedel 2020), and specific court outputs (Christenson and Glick 2015, 2019; Nicholson and Hansford 2014; Strother and Gadarian 2022; but see Gibson 2017).

[3] In his concession speech following the *Bush v. Gore* decision, Al Gore captured this ethos at an individual level, stating "Let there be no doubt, while I strongly disagree with the court's decision, I accept it" (see also Gibson and Nelson 2015). Donald Trump illustrated the flip side of this attitude, tweeting that the Supreme Court had "No wisdom, No courage!" after it denied attempts to overturn election results in the 2020 presidential election (de Vogue and Vazquez 2020).

[4] Tyler does not argue that motivations for compliance are mutually exclusive; a sense of obligation to follow legitimate legal authority, coercion and instrumental assessments may coexist and separately contribute to compliance. He maintains, however, that the belief in the law's legitimacy has proven to be the primary motivator in compliance (Tyler 2019).

respects people's rights, makes decisions fairly, and honors its boundaries.[5] Consistent with this argument, empirical studies both in the U.S. and abroad have repeatedly shown that "people can and will consent to appropriately enacted and exercised legal and political authority" (Tyler 2019: 258; but see Baird 2001). While behavioral public legitimacy applies to disgruntled litigants, it is broader than institutional public legitimacy, covering citizens' obedience to laws in the absence of a court decision or even the prospect of enforcement, such as a driver who follows the speed limit on a lonely stretch of highway with no police in sight.

C. *Systemic Public Legitimacy*

Systemic public legitimacy centers on attitudes towards lawsuits. It is inherently comparative, asking whether attitudes towards lawsuits differ from attitudes towards other types of claims based on the same injuries and grievances. It is related to what political scientists call "venue effects," or the legitimacy-conferring powers of litigation and the courts, especially the Supreme Court, relative to other policy-making processes or institutions, such as legislators, regulators, and state referenda (e.g., Gibson 1989; Mondak 1992; Clawson, Kegler, and Waltenburg 2001; Gibson, Caldeira and Spence 2005; Bartels and Mutz 2009; Woodson 2019). Venue effects studies typically use survey experiments to examine the impact of judicial decisions on public attitudes towards policies, although some analyze the effect of decisions on attitudes towards groups of claimants as well (see, e.g., Gash and Murakami 2015; Bishin et al. 2016; Flores and Barclay 2016; Tankard and Paluk 2017). Systemic public legitimacy, by

[5] Scholars of institutional public legitimacy would see these factors as components of specific not diffuse support (Baird 2001).

contrast, does not focus on reactions to specific policies or decisions; it concentrates on attitudes towards the decision to litigate in the first place, irrespective of the outcome of litigation.[6]

The stakes of systemic public legitimacy are potentially far-reaching. Attitudes towards appropriateness of lawsuits might affect jurors' willingness to recognize claims (Hans 2000; MacCoun 2006), shape public discourse on the tort system (Haltom and McCann 2004; Bailis and MacCoun 1996), influence attitudes towards toward tort reform (Malhotra 2015), and/or the likelihood of opinion backlash against the courts as well as claimants who rely on litigation (Gash and Murikami 2015; Barnes, Menounou, and Hevron forthcoming). As a policy and political matter, however, systemic public legitimacy is most relevant to meritorious claims. After all, it would be neither surprising nor objectionable if people reacted negatively to frivolous litigation. However, it would be problematic if good faith lawsuits were viewed less favorably than comparable claims in other venues. Such reflexive negativity would serve as a kind of public opinion tax on litigation or, to use Gash and Murakami's formulation (2015: 682), a hidden opportunity cost for litigants. It also might prime people to favor tort reforms aimed at retrenching across-the-board access to the courts, regardless of the underlying merits of claims (Malhotra 2015; see generally Burke 2002; Daniels and Martin 2015).

In sum, like the broader concept of legitimacy, public legitimacy is multifaceted. As seen in Table 1, it includes multiple subtypes, each featuring distinct issues, concepts, and analytic domains (or areas of primary relevance). Consistent with the law and society literature, systemic

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[6] A separate but related question concerns the impact of turning to the courts on attitudes towards litigants as opposed to lawsuits. The relationship between attitudes towards lawsuits and litigants is complex, as studies show significantly more negative attitudes towards litigants than other types of claimants, while significantly more positive attitudes towards lawsuits than doing nothing and engaging in self-help (Barnes, Menounou and Hevron forthcoming). Reconciling these findings is beyond the scope of this paper. However, our findings on claim exhaustion, discussed below, might offer some clues to this puzzle, suggesting people believe that claimants should have the right to sue but should only turn to the courts as a last resort. This reflects Kagan's arguments about the two faces of adversarial legalism, which acknowledges the promise of lawsuits in the abstract while remaining concerned about potential abuses by litigants in practice (Kagan 2019).

public legitimacy aims to "de-center" the study of legitimacy, directing attention to the views of ordinary citizens towards everyday litigation and legal practices as opposed to formal institutions, legal requirements, or judicial decisions (e.g., Ewick and Silbey 1998). Given this focus, it embeds legitimacy in cultural debates about the value of rights-based advocacy versus the perils of "hyper-litigiousness," which have been part of the "culture wars" for decades (Haltom and McCann 2004).

Table 1. Summary of Public Legitimacy Subtypes

Name	Core issue(s)	Key Concept(s)	Primary Analytic Domain
Systemic	Attitudes towards lawsuits	Perceptions of the appropriateness of litigation versus other types of claims	Meritorious lawsuits
Institutional	Acceptance of unpopular court decisions	Diffuse versus specific support for courts	Losers in court
Behavioral	Willing compliance	Obligation to legal authority, perceptions of procedural justice	Ordinary citizens facing legal requirements in absence of coercion, instrumental benefit, or agreement with the law

III. Case Selection and Hypotheses

Having defined systemic public legitimacy, we can turn to the details of our study, beginning with case selection and hypotheses. We focus on tort for substantive and theoretical reasons. Substantively, in modern industrialized societies, people inevitably suffer harms from a variety of sources, including accidents, unsafe and defective products, and negligent and reckless conduct. These harms naturally give rise to demands for compensation and governments must decide who should get paid, how much, and by whom (Friedman 2019). Tort law is integral to the densely layered system of injury compensation policies in the United States (Kagan 2019;

Barnes and Burke 2020). In addition to providing specific remedies, tort's broad principles of liability and damages can adapt to novel claims and address injuries that might fall between the gaps in the patchy U.S. system of social benefits (Barnes and Burke 2015).

Moreover, despite repeated attempts by conservative politicians and businesses to enact "discouragement reforms," such as damage caps that limit recovery from successful suits (Burke 2002), tort litigation remains prevalent. In 2018 alone, claimants filed an estimated 624,000 tort cases in state courts (State Court Caseload Digest 2018 Data, p. 7), which translates to roughly one state tort suit per minute around the clock, 365 days a year. Tort also accounts for a significant portion of the federal docket. From June 2021 to June 2022, tort filings made up over one-third—105,267 of 293,762—of all federal civil cases, which is more than twice the number of civil rights suits and fifteen times the number of immigration cases (105,267 versus 39,592 and 6,611, respectively) (Federal Judicial Caseload Statistics 2020, Table C-2). While some suits have been limited by reforms (Coffee 2015; Daniels and Martin 2015), tort still addresses a wide range of issues, including relatively routine matters arising from automobile accidents, medical malpractice, and negligence to complex issues related to public health crises, such as the fallout from tobacco use (Derthick 2012), opioids (Gluck et al. 2018), asbestos (Barnes 2011), lead paint (Gifford 2013) and others (Nagareda 2007).

Theoretically, as noted in the introduction, tort represents a promising case for exploring cultural debates about systemic public legitimacy, as the total justice, tort tale, and mixed views imply different attitudes towards the appropriateness of lawsuits, which suggest a series of testable hypotheses. So, total justice narratives hold that modern governments should respond to a wide range of pressing problems through diverse remedies, including tort. The neutral version of this view predicts that people will accept injury compensation victims seeking relief through a

variety of third-party claims, which will be seen as roughly equivalent. The pro-litigation version anticipates that people will favor lawsuits over its alternatives. These arguments suggest the following:

> ***The Total Justice Claiming Hypothesis.*** All things being equal, subjects will believe that legal claims are more appropriate than doing nothing or engaging in self-help and as appropriate as other types of third-party claims.

> ***The Total Justice Legal Superiority Hypothesis.*** All things being equal, subjects will believe that legal claims are more appropriate than doing nothing and other types of claims, including self-help and third-party claims.

Tort tales take the opposite view. They portray litigation negatively, suggesting that the flood of modern litigation is cause for condemnation not celebration. According to this view, the tort system has run amok, featuring a torrent of bogus lawsuits. These arguments imply the following hypotheses:

> ***Tort Tale Claiming Hypothesis.*** All things being equal, subjects will believe that legal claims are less appropriate than doing nothing and other types of claims.

> ***Tort Tale Frivolous Lawsuit Hypothesis.*** All things being equal, subjects will believe that claimants who file lawsuits are less injured and more at fault than claimants who pursue other types of claims.

The final view is ambivalent. It recognizes that tort law can be open, innovative, and responsive as well as costly, inefficient, and unpredictable. It is difficult, if not impossible, to assess the overall value of these characteristic plusses and minuses (Kagan 2019; Barnes and Burke 2020). For example, how do we quantify the benefits of a Janus-faced system? Are the growing number of claims a measure of openness, innovativeness and responsiveness, or a sign of costliness and too much litigation? How do we interpret its downsides? Does the threat of costly, inefficient, and unpredictable lawsuits encourage the equivalent of wasteful "defensive medicine," as organizations overreact to the uncertain possibility of "break-the-bank" verdicts (Kagan 2019), or a "fertile fear of litigation," which forces otherwise recalcitrant organizations

to adopt much-needed reforms (Epp 2009)? Even if we can measure the system's attributes and spillover effects, how should they be weighted? What is the net value of slow and costly litigation that recognizes novel claims overlooked by other policymakers?

Given these uncertainties, people may be torn about tort litigation, adopting the attitude of "not sure" or "it depends." If so, we would not expect to find clear patterns in attitudes towards tort claims as compared to their counterparts, suggesting a null hypothesis:

> ***The Null Claiming Hypothesis.*** All things being equal, there will not be a significant difference in subjects' beliefs about the appropriateness of legal claims versus other types of claims.

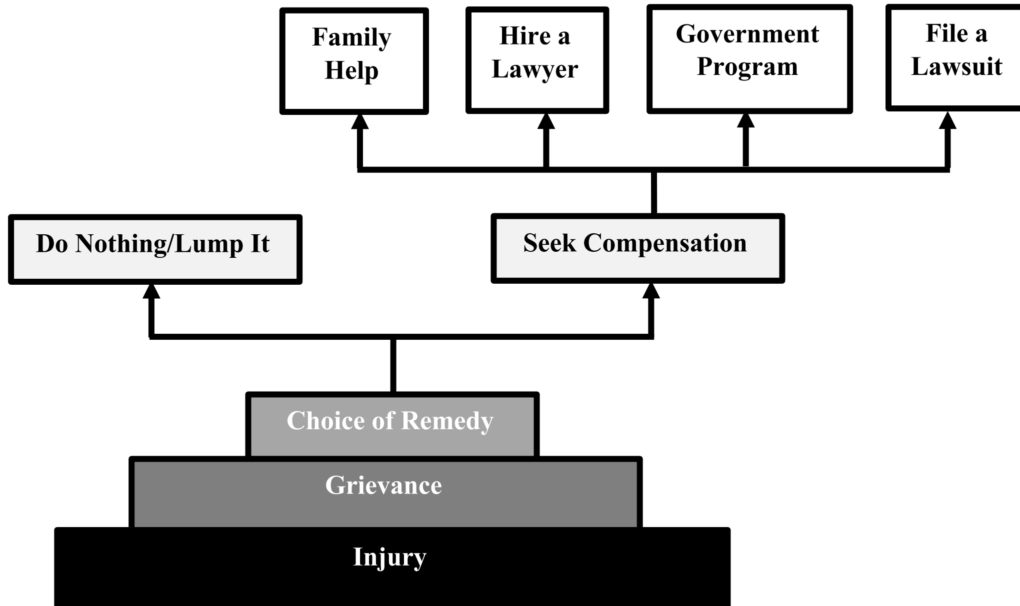
III. Survey Design

These hypotheses have a comparative dimension, positing attitudes towards tort lawsuits that are more positive, less positive, or equivalent to their alternatives. The question, then, is: tort compared to what? Here, the concept of "the dispute tree" from socio-legal literature is helpful (see Albiston et al. 2014; see also Nielsen and Nelson 2005).[7] It maps the injury claiming process as seen in Figure 2. It begins with an injury and then moves to grievance. (Of course, some "climb" the dispute tree in bad faith without a legitimate injury or grievance.) In the typical case, aggrieved victims then face the choice of seeking compensation or "lumping it." It should be noted that not all injuries create grievances and many claimants forego making claims, even in the area of medical malpractice, which is supposedly a hotbed of litigation (Brennan et al. 1991). If aggrieved injury victims decide to make a claim, they must choose a remedy, such as pursuing "self-help" by, for instance, asking family for assistance, or turning to a third party for help, such

[7] We used the same survey prompt and design in an earlier article to look at attitudinal backlash against tort *claimants* (Barnes, Menounou, and Hevron forthcoming). Here, we explore issues related to legitimacy and *claim* appropriateness, which draw on results from different questions. There is inevitable overlap in our discussion of survey design, methods and data in this paper and our earlier article. The framing and foci, however, differ. At the end of this paper, we revisit our earlier work and consider how these studies' findings, which seem in tension, might be reconciled.

as hiring a lawyer to write a demand letter on their behalf, filing a claim with a government program, or bringing a lawsuit.[8]

Figure 2. The Dispute Tree



While this framework is admittedly a simplification, it usefully captures the basic structure of the claiming process, which is rooted in injury, moves to grievance, and then branches out to reflect the decision to seek compensation and, if so, a choice among self-help and third party remedies.[9] Its distinct branches reflect the compartmentalized—or layered—nature of American injury compensation policy, which creates conceptually separate sources of compensation as opposed to a single set of interlocking options (Barnes and Burke 2020).

[8] Even fully insured injury victims may sue. Sugarman (1989:40) explains "only 10-15 percent of the costs of the tort system go to compensating victims' out-of-pocket medical expenses, lost income and the like." The rest is aimed at deterrence, punitive damages, pain-and-suffering, and things not covered by other remedies.
[9] We could, for example, add branches above the "government program" box to reflect specific programs or subdivide the "file a lawsuit" box to include different stages of litigation, such as filing a suit, discovery, pre-trial motions, trial and appeals. We could also add different types of self-help, such as directly contacting the potential payor.

Indeed, the "collateral source rule" in the U.S. bars juries from even hearing about payments from other sources (Kagan 2019: 155-156, 175).

Translating the dispute tree framework into an experiment requires some context. Our study focuses on compensating workplace injuries, which would normally fall under a workers' compensation program. These programs typically bar tort lawsuits by employees against their employers, limiting the choice of remedies. But not always. The nation's largest workers' compensation system in California, for example, allows victims of occupational disease to sue their employers in tort, even if they have already received workers' compensation benefits, when they believe their employees concealed risks and made their injuries worse (*Aerojet General Corp. v. Superior Court* (1986) 177 Cal.App.3d 950, 956; see generally California Labor Code Section 3602(b)(2)). Under this scenario, all the claiming options in the dispute tree are theoretically available.

Accordingly, we designed the survey around a hypothetical worker, Joe, who was diagnosed with an illness associated with chemicals that he used at work and believes that his employer contributed to his injury. Specifically, after introducing him, the survey prompt states:

> Joe believes that his company should have told its employees that these chemicals were risky. He thinks that his employer didn't take adequate steps to do this while he worked there. Joe's company argues that nobody knew about these risks at the time Joe worked there and that it followed the rules that were in place.

> Despite the fact that Joe worked for the company for a long time and has some health insurance, his insurance does not fully cover his doctors' bills and medical expenses.

The prompt concludes with a list of Joe's relevant claiming options from the dispute tree. We then randomly assigned subjects to a control group, which received only the prompt, or one of five treatment groups: (1) forego pursuing compensation and lump it ("Lumping It"); (2) ask his family for help ("Family Help"); (3) hire a lawyer to write a letter to his former company seeking compensation ("Hire a Lawyer"); (4) file a claim with a government program for workers injured on the job ("Government Program"); or (5) file a lawsuit against his former company ("File a Lawsuit"). Following assignment, we asked how our subjects felt towards his level of injury and fault, his mode of seeking compensation, and the general appropriateness of different claiming scenarios.

IV. Data and Measures.

For our treatment variables, we created dummies (0 for not assigned, 1 for assigned) for the control and each treatment option. For our primary outcome, claim appropriateness, we asked whether our respondents agreed the assigned choice of remedy was appropriate on scale from 1 ("Strongly Disagree") to 5 ("Strongly Agree"). Our secondary outcomes, designed to explore the Tort Tale Frivolous Litigation Hypothesis, are perception of injury and assignment of blame. We measured perceived injury on a four-point scale, where 1 is mild illness, 2 is moderate illness, 3 is severe illness and 4 is extremely severe illness, and assignment of blame on a scale from 0 to 100, where 0 is entirely Joe's fault, 50 is equal blame, and 100 is entirely the Company's fault. These measures, along with our covariates, are summarized in Table 2.

Table 2. Summary of Key Variables and Measures

Type	Name	Description
Treatment	Control	1=Assigned prompt only; 0=not assigned to this group
	Family Help	1=Assigned family help treatment; 0=not assigned to this group
	Lumping It	1=Assigned do nothing/lump it treatment; 0=not assigned to this group
	Hire a Lawyer	1=Assigned demand letter treatment; 0=not assigned to this group
	Government Program	1=Assigned government claim treatment; 0=not assigned to this group
	Lawsuit	1=Assigned lawsuit treatment; 0=not assigned to this group
Primary Outcome	Claim Appropriateness	5-Point Scale on the extent to which subject agrees the assigned claim is appropriate where 1=Strongly Disagree, 2=Disagree, 3=Not Sure, 4=Agree, 5=Strongly Agree
Secondary Outcomes	Injury Severity	4-Point Likert Scale of the severity of Joe's illness; 1=Mild, 2=Moderate, 3=Severe, 4=Extremely Severe
	Blame Share	0 to 100 Feeling Thermometer, 0=Joe entirely to blame, 50=Joe and Company are equally to blame; and 100=Company entirely to blame
Covariates	Ideology	7-Point Likert Scale, -3=Extremely liberal, -2=Liberal, -1=Slightly liberal, 0=Moderate; Middle of the road, 1=Slightly conservative, 2=Conservative, 3=Extremely conservative, 99 = Haven't thought much about this
	Gender	1=Male, 0=Female or Other
	Age	1=50 and over, 0=18-49
	Education	0=Nursery school to 8th grade, Some high school, no diploma, High school graduate, diploma, or the equivalent (for example: GED), 1=Some college credit, but no degree, Trade/technical/ vocational training, Associate's degree, Bachelor's degree, or Advanced degree
	Race	1=White, 0=Non-white

V. Survey Implementation

We fielded our survey in January 2021 online using the subject pool from Qualtrics (without quotas), which is the most demographically and politically representative among leading online convenience samples in the U.S. (Boas et al. 2020). The survey was intended to take about ten minutes and subjects were paid $5 upon completion. It was conducted in waves.

We fielded a soft launch on January 7 and 8, collecting 100 pilot responses to troubleshoot problems, and resumed on January 20. The survey closed on January 22.

We included several quality checks. For example, we automatically dropped respondents who completed the survey in less than one-half the median soft launch time. Prior to treatment, we asked a series of demographic questions, including questions about our subjects' gender, education, race, and political ideology, to test whether the randomization produced balanced groups. (See Appendix 1 for the results.) We also tested comprehension and attentiveness in the pre-test questionnaire using a "screener" question designed by Berinsky et al. (2019; see also Berinsky et al. 2014; cf. Montgomery et al. 2018). The screener question was unrelated to our topic and focused solely on ensuring that participants fully read the prompts provided to them.[10]

There were 1,007 participants in total after screening.[11] One hundred seventy-six subjects were randomly assigned to the Control Group, 164 to the Lumping It Group, 162 to the Family Help Group; 168 to Hire a Lawyer Group; 163 to the Government Program Group, and 174 to the Lawsuit Group. As shown in Appendix 2, the randomization performed quite well, producing groups that are similar with respect to the pretreatment demographic characteristics that might affect attitudes toward litigation.

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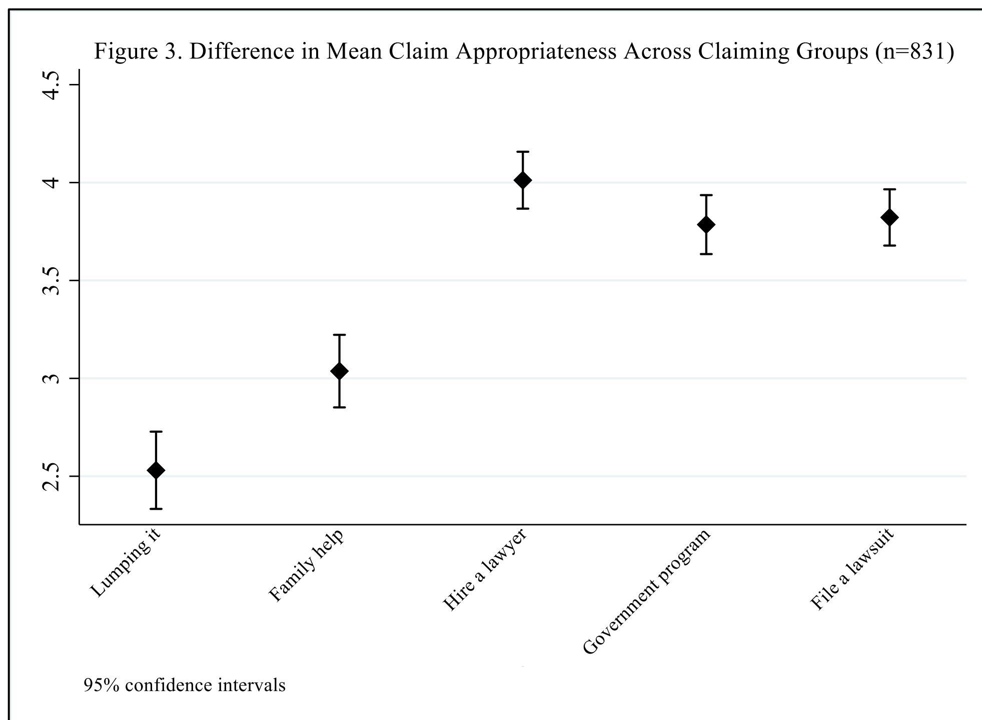
[10] The screener question states as follows: "We would like to get a sense of your general preferences. Most modern theories of decision making recognize that decisions do not take place in a vacuum. Individual preferences and knowledge, along with situation variables, can greatly impact the decision process. To demonstrate that you have read this much, just go ahead and select both red and green among the alternatives below, no matter what your favorite color is. Yes, ignore the question below and select both of these options. What is your favorite color?" Respondents were then given a choice of colors from which to choose, with 'Red' and 'Green' being the only correct options.

[11] Prior to fielding this survey, we conducted a pilot survey on Amazon's Mechanical Turk to test our instrument and refine our concepts and measures. We used the results of that study to conduct a linear regression power analysis to estimate a minimum sample. Seeking a nominal power of .9, this power analysis estimated a minimum sample of 767 participants. The basic findings with respect to negative attitudes towards Joe filing a lawsuit versus alternative claiming options were nearly identical in this study and our pilot study.

VI. Findings

Claiming Hypotheses. The Total Justice, Tort Tale and Null Claiming Hypotheses predict different attitudes towards the appropriateness of filing a lawsuit versus its alternatives. Figure 3 sets forth the mean responses across the claiming groups with 95 percent confidence intervals.[12] The results were consistent with the Total Justice Claiming Hypothesis (but not the Total Justice Legal Superiority Hypothesis, which predicts litigation would be seen as the most appropriate remedy). Specifically, filing lawsuits were seen as significantly more appropriate than lumping it or asking family for help (3.82 versus 2.53 and 3.04, respectively), about the same as filing a claim with a government program (3.82 versus 3.78), and only slightly less appropriate than hiring a lawyer to write a demand letter (3.82 versus 4.01, which was within the confidence interval).



[12] The smaller N reflects the omission of the Control Group from the claim appropriateness data, as the Control Group subjects did not receive a claiming option.

Table 3 below elaborates Figure 3.[13] Each row represents a comparison between a claiming group and the Lawsuit Group and provides the difference in means, percentage change, Cohen's *d* and Cohen's *d* 95 percent confidence intervals. As seen in the first row, the difference between the Lumping It and Lawsuit Groups is 2.33 versus 3.82, which is statistically significant beyond the .01 level. This 1.29 shift represents a 51 percent increase, which constitutes a large effect using Cohen's *d*.[14] The difference between the Family Help and Lawsuit Groups (3.04 versus 3.82) is also statistically significant beyond the .01 level. But the 26 percent increase is smaller, representing a medium to large effect using Cohen's *d.* By contrast, the difference between the Lawsuit and Government Program Groups (3.79 versus 3.82) is not statistically significant, while the difference between the Lawsuit and Hiring a Lawyer Groups (3.82 versus 4.01) is significant to only the .10 level. Both represent a 5 percent change or less, which range from small to negligible effect sizes. (Remember that all confounding variables that may explain the differences in means across these groups beyond our randomized conditions are "controlled for" through the experimental design.[15])

[13] Appendix 3 provides the difference of means for all remedies in matrix form.

[14] Another way to conceptualize effect size is comparing standardized coefficients. As seen in Appendix 4, the robust, standardized coefficient for the Lawsuit Group was much larger than the covariates in our analysis, including ideology, race, gender, and education.

[15] We engaged in several robustness checks. First, even though our hypotheses were preregistered, we ran our difference in means analysis using Bonferroni corrections to check against Type I errors for all analyses. Using this conservative approach, our results were nearly identical, except for the difference between filing a lawsuit and hiring a lawyer, which disappeared. Second, we ran regressions with and without covariates for all analyses. (The regression results are reported in the Appendices.)

Table 3. Summary of Difference in Means and Substantive Effects Between Lawsuit and Other Groups: Claim Appropriateness (N=831)

Comparison Group v. Lawsuit (Means)	N	Difference in Means	Percent Change	Cohen's *d*	Cohen's *d* 95% Confidence Interval
Lumping It (2.53 v. 3.82)	336	1.29***	+51%	1.17	1.41 to .94
Family Help (3.04 v. 3.82)	336	.78***	+26%	.73	.95 to .50
Hire a Lawyer (4.01 v. 3.82)	342	-.19*	-5%	-.20	-.41 to -.01
Government Program (3.79 v. 3.82)	337	.04	+1%	.04	.25 to -.17

Assumes unequal variance.
All numbers rounded to nearest one-hundredth, except percentages are rounded to nearest integer.
*p≤.10, ** p≤.05, ***p≤.01

Tort Tale Frivolous Lawsuit Hypothesis. Contrary to the Tort Tale Frivolous Lawsuit Hypothesis, subjects in the Lawsuit Group did not believe that Joe was less injured or more at fault than other groups. To the contrary, Figure 4 reports the mean perceptions of the severity of Joe's illness with 95 percent confidence intervals. Recall that injury severity was measured on a four-point scale, ranging from 1 (mild illness) to 4 (extremely severe illness). As seen below, the Control Group believed that Joe was moderate to severely injured on our scale (2.30); the Lawsuit and Hire a Lawyer Groups were higher (2.54 and 2.55, respectively); and the Family Help and Government Program Groups were in the middle (2.36 and 2.41, respectively).

Figure 4. Mean Perception of Injury Severity Across Groups (n=1007)

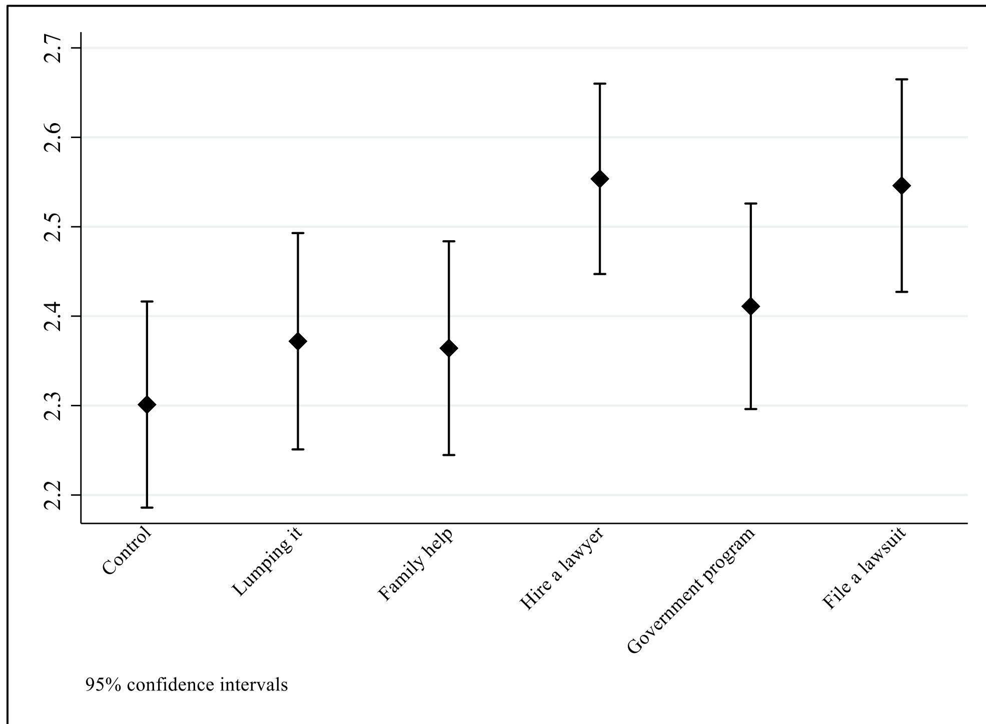


Table 4 reports the differences in means and substantive effects. Overall, subjects in the Lawsuit Group viewed Joe as either more or equivalently injured than the other groups. Specifically, the difference in mean perception of Joe's injury was higher in the Lawsuit Group versus the Control (2.54 versus 2.30) beyond the .01 level of statistical significance, the Lumping It and Family Help Groups (2.54 versus 2.36) to the .05 level, and Government Program Group (2.54 versus 2.41) to the .10 level. Perceptions of injury severity between of Lawsuit and Hire a Lawyer Groups were nearly identical (2.54 versus 2.55) and statistically equivalent. The magnitude of the effects for all the groups were generally small, ranging from a one to 10 percent change with Cohen's *d* scores around .20.

Table 4. Summary of Difference in Means and Substantive Effects Between Lawsuit and Other Groups: Perception of Injury Severity (N=1007)

Comparison Group v. Lawsuit (Means)	N	Difference in Means	Percent Change	Cohen's *d*	Cohen's *d* 95% Confidence Interval
Control (2.30 v. 2.55)	350	.24***	+10%	-.34	-.55 to - .12
Lumping It (2.37 v. 2.55)	336	.17***	+7%	-.23	-.44 to -.02
Family Help (2.36 v. 2.55)	336	.18**	+8%	.-.23	-.44 to -.02
Hire a Lawyer (2.55 v. 2.55)	342	.01	.01	0	-.21 to .21
Government Program (2.41 v. 2.55)	337	.13*	+5%	-.18	-.39 to .03

Assumes unequal variance.
All numbers rounded to nearest one-hundredth, except percentages are rounded to nearest integer.
*p≤.10, ** p≤.05, ***p≤.01

Figure 5 reports the mean assignment of blame across the groups on a scale from 0 to 100 with 95 percent confidence intervals, where 0 is entirely Joe's fault, 50 is equal blame, and 100 is entirely the Company's fault. The results ranged from 71 to 76, indicating that our subjects placed most of the blame on the Company across all groups. Table 5 reports the differences in means and substantive effects. It shows that the levels of blame assignment in the Lawsuit Group were statistically equivalent to those in the other claiming groups with small to negligible effect sizes.

Figure 5. Mean Assignment of Blame Across Groups (n=1007)

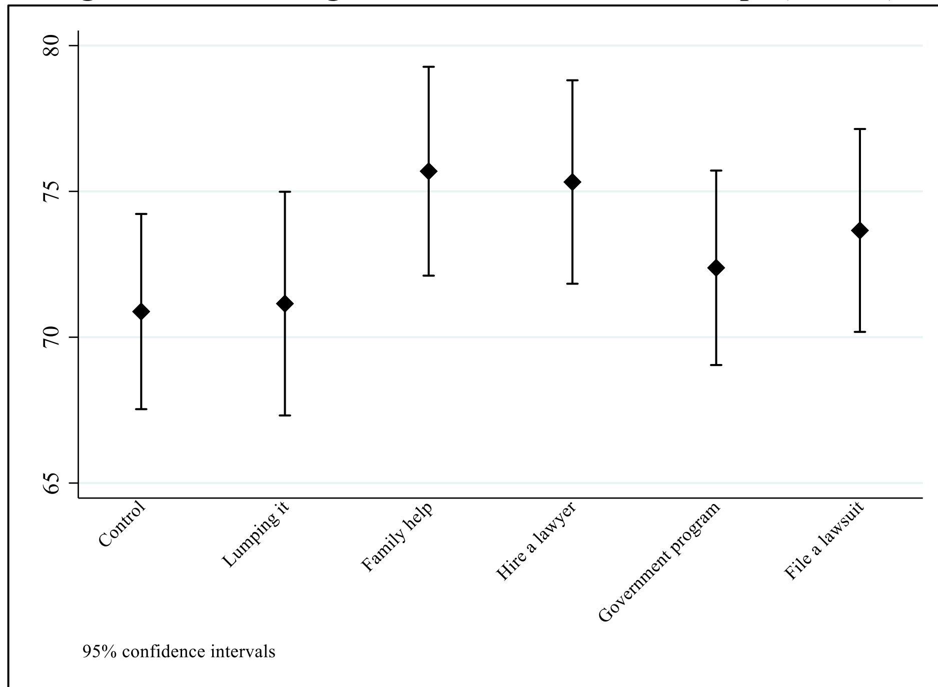


Table 5. Summary of Difference in Means and Substantive Effects Between Lawsuit and Other Groups: Assignment of Blame (N=1007)

Comparison Group v. Lawsuit (Means)	N	Difference in Means	Percent Change	Cohen's *d*	Cohen's *d* 95% Confidence Interval
Control (70.88 v. 73.66)	350	2.78	+4%	-.12	-.31 to .09
Lumping It (71.15 v. 73.66)	336	2.51	+4%	-.10	-.31 to .11
Family Help (75.69 v. 73.66)	336	-2.03	-3%	.09	-.13 to .30
Hire a Lawyer (75.32 v. 73.66)	342	-1.66	-2%	.07	-.14 to .28
Government Program (72.38 v. 73.66)	337	1.28	+2%	-.06	-.27 to .16

Assumes unequal variance.
All numbers rounded to nearest one-hundredth, except percentages are rounded to nearest integer.
*p≤.10, ** p≤.05, ***p≤.01

Shifting Attitudes on the Justifiability of Joe's Lawsuit. The differences in means represent a useful first cut at the data, presenting the choice of remedy as a series of discrete

decisions. In practice, however, claimants often ramp up claiming, starting with less formal remedies and building towards a lawsuit. Accordingly, following the experiment, we explored whether Joe's lawsuit would seem more justifiable to our subjects if they were told that he turned to the courts after trying other remedies.[16] Of course, being denied by other potential sources might have the reverse effect, casting doubt on the underlying merits of the claim and hence undermining the justifiability of pursuing litigation.

To explore these possibilities, we presented subjects with a series of claim exhaustion scenarios: (1) filing a lawsuit after failing to get compensation from his family; (2) filing a lawsuit after failing to get compensation from his family and a demand letter; and (3) filing a lawsuit after failing to get compensation from his family, demand letter and government claim.[17] After each scenario, we asked whether they agreed that Joe's filing a lawsuit would be more justified on scale from 1 ("Strongly Disagree") to 5 ("Strongly Agree").

On average, the respondents' level of agreement steadily increased after learning of each scenario. When told Joe filed a lawsuit after failing with his family, respondents' mean level of agreement was 2.91. After being informed that he failed not only with his family but also after a lawyer wrote a demand letter, the mean level of agreement jumped to 3.33. It increased again to 3.56 after being told that Joe filed a lawsuit after exhausting the family help, demand letter, and

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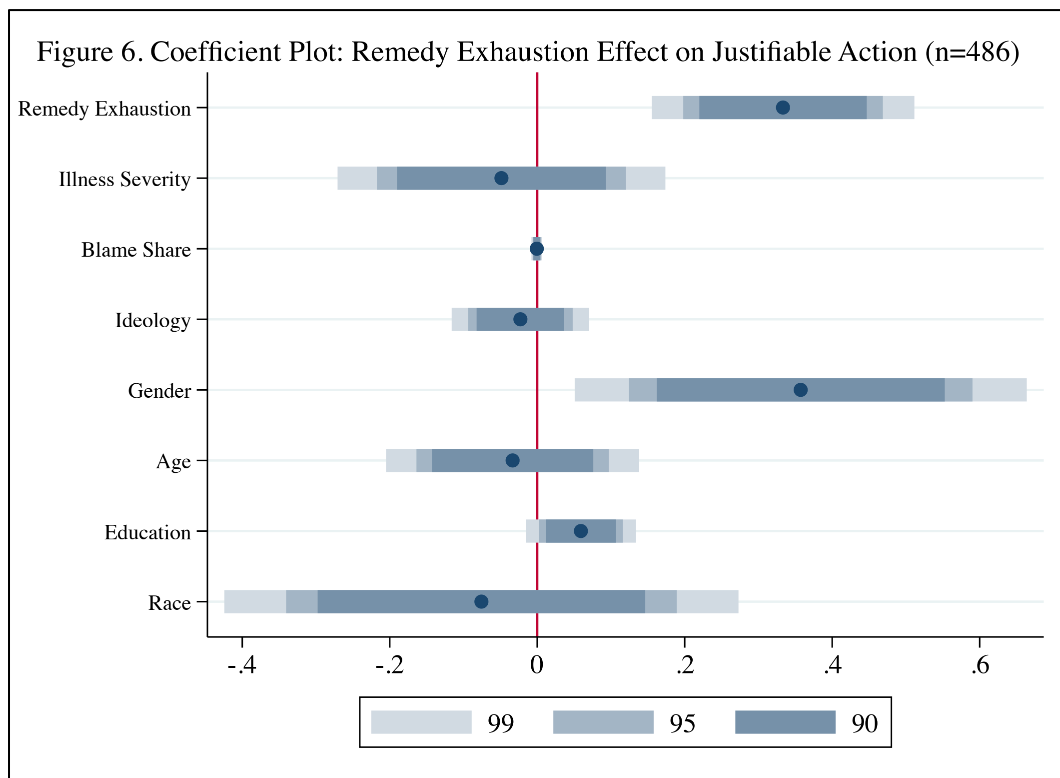
[16] Our approach reflects standard process tracing techniques for exploring causal mechanisms, which rest on generating observable implications of underlying causal processes — "causal process observations," or CPOs—and exploring whether these CPOs can be found in supplemental analyses (see Collier 2011). It should also be noted that this analysis also appears in our earlier work, which focuses on attitude towards claimants. As a result, the discussion of the survey instrument is similar, but the findings are applied in a different context.

[17] The order of claiming scenarios was not randomized when presented to subjects for several reasons. First, exhausting remedies typically implies a ratcheting up of claiming activity towards the formal filing of a lawsuit. Accordingly, we began with the least formal remedy—asking family for help—before hiring a lawyer to begin negotiations, and then filing a claim with a government program. Second, we believe that this order of remedies is generally consistent with depictions of how claimants, like Stella Liebeck in the McDonalds' coffee case, actually behave (Haltom and McCann 2004: Lopez 2016). Of course, it is possible that a different order of claiming scenarios—reflecting a different claiming logic—might yield a different set of responses.

government program options. As seen in Figure 6, the effect of Remedy Exhaustion—the number of claims exhausted prior to filing represented in the nested claiming scenarios described above—was significant beyond the .01 level, controlling for perception of injury, assignment of blame share and our covariates. Although not part of our randomized experiment, this "dose effect" buttresses the notion that attitudes toward tort claims are malleable and that systematically exhausting remedies prior to litigating might enhance attitudes towards lawsuits.



VI. Discussion

Legitimacy is crucial to an effective rule of law but difficult to study. Part of the challenge is conceptual, as legitimacy encompasses multiple definitions and types, which are sometimes in sync and other times discordant. To navigate this complexity, we organized the literature into levels (recall Figure 1). The top level distinguishes moral, legal, and public

legitimacy (Fallon 2018). The next differentiates public legitimacy into three subtypes: institutional, behavioral, and systemic.

No single study can fully capture this complex landscape. Instead, the study of legitimacy inevitably proceeds piecemeal, as scholars explore its distinct conceptual corners, seeking to add pieces to a broader mosaic. In that spirit, we examined systemic public legitimacy through the lens of the perceived appropriateness of tort claims related to workplace injuries and competing stories about the appropriateness of litigation, which include total justice, tort tale, and mixed narratives. Using a survey experiment, we found our subjects held qualified total justice attitudes towards tort claims. On one hand, they did not believe that lawsuits were more frivolous than other types of claims. To the contrary, our subjects indicated that litigants were either more or similarly injured than other types of claimants and mostly not at fault (to the same degree as other groups). Moreover, consistent with the ideal of total justice, our subjects significantly favored pursuing third party claims over lumping it or seeking help from family members. On the other hand, our respondents did not embrace the pro-litigation version of the total justice view. Instead, they saw litigating, filing claim with a government program or having a lawyer send a demand letter in similar terms.[18]

Our observational findings on claim exhaustion suggest that claiming strategies can improve attitudes towards the justifiability of filing a lawsuit. Specifically, exhausting other remedies before filing a lawsuit significantly enhanced the justifiability of turning to the courts. Indeed, the justifiability of litigating steadily (and significantly) improved the more remedies were tried and failed prior to filing the lawsuit. This incremental improvement implies a

[18] Of course, none of our findings address the duration of the effect or how the change in attitude would likely alter the respondents' behavior. Exploring these questions requires further research.

preferred claiming logic, which sees litigation as most justified when used as a last resort, even when the underlying claim is meritorious. Here, we see some echoes of Kagan's mixed narrative about adversarial legalism. Our subjects seemed to recognize that litigation can be appropriate but remain skeptical about claims that are rushed to court.

It is worth noting that studies relying on very different methods and data also find that exhausting other remedies bolsters litigation's justifiability. Consider David Engel's classic ethnography of attitudes towards tort litigation in a small, Midwestern town, mentioned in the introduction. In that study, Engel interviewed lawyers who faced juries drawn from small communities that seemed hostile to tort claims as opposed to contract claims, in part because filing a tort claim was seen as violating traditional values of self-reliance while contract claims seemed rooted in the value of honoring your commitments. Faced with these tort tale attitudes, lawyers explained how providing context for the decision to sue was crucial:

> So first I've got to sell the jury on the fact that this man's tried every way or this woman's tried every way to get justice and she couldn't. And they now come to you for their big day. . . . And then you try like hell to show that they're one of you, they've lived here and this and that. (Engel 1984: 561).

When studies that rely on divergent methods and data yield similar findings, the results lend some convergent validity to both (Barnes and Weller 2017).[19]

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[19] This strategy is not limited to tort and injury compensation cases. We see the Justice Department promoting an "exhaust-other-remedies" strategy in its efforts to retrieve government documents from former President Donald Trump. Given the President's defiant behavior following the 2020 election, government officials may have been skeptical of the effectiveness of asking for Trump's cooperation. Moreover, there was some urgency to force the former President's hand, as there were concerns that top secret documents were being held in an unsecure facility. Yet, government officials carefully ramped up their efforts, beginning with informal requests, moving to official demands, and then referring the matter to the Department of Justice, which also carefully exhausted less intrusive remedies before having the FBI search the former President's private residence. The Department of Justice have made parallel efforts to exhaust other avenues prior to turning to the courts and have made these efforts public when explaining its strategy.

All studies make trade-offs and ours is no exception. We focused on a sympathetic claimant suffering from occupational disease. Obviously, there are other types of tort claims and other types of litigation. Moreover, our experiment rested on a specific claiming scenario, which naturally trades internal for external validity. We think this is a worthwhile trade-off given the difficulty of making causal inferences from observational data. But it would be interesting to see if similar dynamics emerge in other policy domains, including other torts, such as routine auto accident cases, slip-and-fall cases, and medical malpractice.

VII. Conclusion

Perceived appropriateness of everyday litigation matters and so does tort law. Substantively, consumers and workers in industrialized societies are bound to get hurt and there must be ways to determine who pays, how much and to whom. In the United States, tort is integral to addressing these issues, as indicated by its ongoing breadth and depth. Indeed, in the time it takes to read this conclusion, another tort suit will probably have been filed in state or federal courts. Theoretically, tort is interesting for analyzing systemic public legitimacy because it lies on the fault line among competing narratives about the value of litigation versus the dangers of an overly litigious society.

To explore this debate, we used the dispute tree to frame a survey experiment to examine perceptions of the appropriateness of tort suits for workplace injuries compared to other avenues for seeking compensation. We found that, despite prominent tort tales in the media, our subjects approved injured workers making claims and generally saw litigation as more appropriate than self-help options, like asking family for help, and roughly equivalent to filing a claim with a government program and hiring a lawyer to send a demand letter. Moreover, the perceived justifiability of the lawsuit steadily improved when the litigant exhausted other remedies before

turning to the courts, ramping up from asking for family help to negotiating to filing third party claims. This finding resonates with earlier studies and suggests that lawyers and rights-based advocates should test other branches of the dispute tree before ascending the courthouse steps. If they do, they might find more sympathy towards their decision to litigate in the jury box and court of public opinion.

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Appendix 1. Demographic Characteristics of Sample

Race	**Frequency**	**Percentage**
White	739	73.4%
Black or African American	134	13.3%
Other	44	4.4%
Asian	33	3.3%
White/ American Indian or Alaska Native	16	1.6%
American Indian or Alaska Native	12	1.2%
White/ Black or African American	10	1%
White/ Asian	5	0.5%
Native Hawaiian or Pacific Islander	3	0.3%
White/ Other	3	0.3%
Black or African American/ American Indian or Alaska Native	2	0.2%
Black or African American/ Asian	2	0.2%
American Indian or Alaska Native/ Other	1	0.1%
Asian/ Native Hawaiian or Pacific Islander	1	0.1%
Black or African American/ Native Hawaiian or Pacific Islander	1	0.1%
Black or African American/ Other	1	0.1%

Gender	**Frequency**	**Percentage**
Female	503	50%
Male	495	49.1%
Other	9	0.9%

Age	**Frequency**	**Percentage**
18-29	333	33.1%
30-49	331	32.9%
50-69	249	24.7%
70 and over	94	9.3%

Education	**Frequency**	**Percentage**
Nursery school to 8th grade	3	0.3%
Some high school, no diploma	34	3.4%
High school graduate	204	20.3%
Some college credit	213	21.2%
Trade/ technical/ vocational training	38	3.8%
Associate’s degree	112	11.1%
Bachelor’s degree	254	25.2%
Advanced degree	149	14.8%

Ideology	**Frequency**	**Percentage**
Extremely liberal	104	10.3%
Liberal	151	15%
Slightly liberal	88	0.9%
Moderate	279	27.7%
Slightly conservative	95	9.4%
Conservative	145	14.4%
Extremely conservative	72	7.1%
Haven’t thought much about this	73	7.2%

Appendix 2. Comparing Covariates Among Treatment and Control Groups

	All Respondents					
	Control	Lumping It	Family Help	Hire a Lawyer	Govt. Program	Lawsuit
Covariates	(1)	(2)	(3)	(4)	(5)	(6)
Ideology	0.34	0.29	0.39	0.36	0.33	0.30
Race	0.69	0.72	0.77	0.73	0.74	0.76
Gender	0.45	0.49	0.57	0.52	0.47	0.47
Age	0.34	0.35	0.33	0.36	0.34	0.33
Education	0.51	0.49	0.53	0.46	0.56	0.52
N	176	164	162	168	163	174

	Differences														
Covariates	(1-2)	(1-3)	(1-4)	(1-5)	(1-6)	(2-3)	(2-4)	(2-5)	(2-6)	(3-4)	(3-5)	(3-6)	(4-5)	(4-6)	(5-6)
Ideology	0.05	-.05	-.02	.01	.04	-.10	-.07	-.04	-.01	.03	.06	.09	.03	.06	.03
Race	-0.03	-0.08	-0.04	-0.05	-0.07	-0.05	-0.01	-0.02	-0.04	0.04	0.03	0.01	-0.01	-0.03	-0.02
Gender	-0.04	-0.12*	-0.07	-0.02	-0.02	-0.08	-0.03	0.02	0.02	0.05	0.1	0.1	0.05	0.05	0
Age	-0.01	0.01	-0.02	0	0.01	0.02	-0.01	0.01	0.02	-0.03	-0.01	0	0.02	0.03	0.01
Education	0.02	-0.02	0.05	-0.05	-0.01	-0.04	0.03	-0.07	-0.03	0.07	-0.03	0.01	-0.1	-0.06	0.04

Notes. Appendix 2 lists demographic covariates. Columns 1-7 display the mean value for each variable, by treatment group, after the variable has been recoded to range from 0 to 1. Columns to the far right are the differences in means among the treatment groups, along with results from difference-in-mean tests (allowing for unequal variances).
*p≤.10, ** p≤.05, ***p≤.01

Appendix 3. Differences in Mean Claim Appropriateness Across Groups (n=831)

Group	*Do Nothing*	*Family Help*	*Demand Letter*	*Government Program*
Family Help	-.51*** (-.41) (-.63 to -.19) (326)	------	-----	-----
Hire a Lawyer	-1.48*** (-1.31) (-1.55 to -1.07) (332)	-.97*** (-.90) (-1.13 to .-68) (332)	-----	-----
Government Program	-1.23*** (-1.10) (-1.34 to -.87) (327)	-.75* (-.69) (-.91 to -.46) (325)	.23** (.26) (.45 to .02) (331)	-----
Lawsuit	-1.29*** (-1.17) (-1.41 to -.94) (338)	-.78*** (.73) (-.95 to -.50) (336)	.19* (.20) (.41 to .01) (342)	-.04 (-.04) (-.25 to .17) (337)

Cohen's *d,* 95% Confidence Intervals for Cohen's *d* and N in parentheses
All t-tests assume unequal variance.
*p≤.10, ** p≤.05, ***p≤.01

Appendix 4. OLS Regressions for Attitudes Towards Claim Appropriateness

Variable Type	Variable Name	Model 1+ (N=831)	Model 2+ (N=771)	Model 3++ (N=771)
Claiming Group	Family Help	.50*** (.14)	.50*** (.14)	.16*** (.14)
	Hire a Lawyer	1.48*** (.12)	1.5*** (.13)	.49*** (.13)
	Government Program	1.25*** (.13)	1.28*** (.13)	.42*** (.13)
	Lawsuit	1.29*** (.12)	1.3*** (.13)	.43 (.13)
Covariates	Ideology	---	-.03 (.02)	-.05 (.02)
	Race	---	-.01 (.1)	-.004 (.1)
	Gender	---	.12 (.08)	.05 (.08)
	Age	---	-.04 (.04)	-.03 (.04)
	Education	---	.08*** (.02)	.12*** (.02)

+Robust standard errors, ++Robust standard errors, Standardized Coefficients; *p≤.10, ** p≤.05, ***p≤.01

Note: The Lumping It Group is the omitted category. The smaller N in Model 1 (N=831) reflects the exclusion of the Control group in the regression. The smaller N in Models 2 and 3 (N=771) reflects the exclusion of the Control Group as well as missing data on the ideology covariate.

Appendix 5. OLS Regressions for Perception of Illness Severity (Robust Standard Errors)

Variable Type	Variable Name	Model 1 (N=1,007)	Model 2 (N=934)
Primary Treatment	Lumping It	.07 (.09)	.05 (.09)
	Family Help	.06 (.08)	.03 (.09)
	Hire a Lawyer	.25*** (.08)	.22*** (.08)
	Government Program	.11 (.08)	.08 (.08)
	Lawsuit	.24** (.08)	.21** (.09)
Covariates	Ideology	---	-.01 (.02)
	Race	---	-.06 (.06)
	Gender	---	.06 (.05)
	Age	---	.11*** (.03)
	Education	---	.04*** (.01)

*p≤.10, ** p≤.05, ***p≤.01

Note. The Control Group is the omitted category and the smaller N in Model 2 (N=934) reflects the exclusion of missing data on the ideology covariate. Coefficients are unstandardized.

Appendix 6. OLS Regression for Perception of Blame Share Across (Robust Standard Errors)

Variable Type	Variable Name	Model 1 (N=1,007)	Model 2 (N=934)
Primary Treatment	Lumping It	.27 (2.58)	-.83 (2.59)
	Family Help	4.81* (2.48)	4.00 (2.50)
	Hire a Lawyer	4.44* (2.45)	3.73 (2.50)
	Government Program	1.50 (2.39)	.54 (2.40)
	Lawsuit	2.78 (2.45)	1.40 (2.45)
Covariates	Ideology	---	-1.57*** (.42)
	Race	---	2.62 (1.86)
	Gender	---	.27 (1.48)
	Age	---	5.1*** (.78)
	Education	---	.87** (.40)

*p≤.10, ** p≤.05, ***p≤.01

Notes. The Control Group is the omitted category and that the smaller N in Model 2 (N=934) reflects the exclusion of missing data on the ideology covariate. Coefficients are unstandardized.