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# 6 Ways To Nuke-Proof Litigation As Explosive Verdicts Rise

By **Edward Casmere and Steven Jansma** (December 10, 2025, 2:49 PM EST)

Eight- and nine-figure U.S. litigation verdicts are coming at a record pace.


Edward Casmere

Recent examples include a $170 million verdict on Nov. 7 in Express Mobile Inc. v. GoDaddy.com LLC, a patent infringement case in the U.S. District Court for the District of Delaware, and an October jury award of $104 million in Johnson v. Illinois State Toll Highway Authority, a highway crash lawsuit in Circuit Court of Cook County, Illinois.[1]

As such cases continue to dominate headlines — and drive up risk, defense costs and corporate anxiety — legal leaders must acknowledge the changed litigation environment and adjust their defense strategies accordingly.


Steven Jansma

One thing is clear: So-called nuclear verdicts — those that surpass $10 million — are no longer outliers. Once thought to be confined to wrongful death and product liability cases, big-ticket awards are raising the stakes across a wide spectrum of claims.

To respond effectively, corporate counsel need to know the how and why behind this trend — and be able to respond to the messages jurors are sending. It also requires understanding how to create a multipronged "no nukes" strategy over the life of a case.

**Why Big Verdicts Are Getting Bigger**

Nuclear verdicts have been accelerating in both frequency and magnitude since 2020. Last year saw a 52% increase in the number of nuclear verdicts and a 116% jump in the total sum of those cases to $31.3 billion compared to the year prior, according to Marathon Strategies, with the median award size growing steadily since the pandemic.[2]

Meanwhile, so-called thermonuclear verdicts — those higher than $100 million — are also surging, reaching a record 49 awards in 2024, up from 27 the previous year.

These changes come amid rising anti-corporate sentiment, enduring public support for punitive damages and increased societal acceptance of lawsuits as a tool to address wrongs — what is often referred to as social inflation.

As reinsurer Swiss Re noted in a September analysis based on a survey of 1,150 U.S. adults, "Juror sentiment has shifted decisively toward plaintiffs. ... The shift is not merely ideological but also

behavioral. Respondents were more likely to recommend compensation even in ambiguous scenarios."[3]

The aftershocks of these verdicts are rippling across litigation types, sending settlement demands through the roof and making trials riskier for both plaintiffs and defendants.[4] Nuclear verdicts now affect labor cases, trade secret litigation and antitrust matters, according to Marathon — essentially, any case where a jury has discretion in its award.

The trend is also extending beyond states like Illinois, New York, Texas and California, which have long been known for awarding high-dollar verdicts. According to Marathon, the top state for nuclear verdicts last year was Nevada, which saw $8.5 billion in total verdicts, largely as a result of high-stakes negligence and product liability lawsuits against a now-defunct bottled water company, Real Water, in the Clark County District Court.[5]

All of this creates an environment for massive verdicts that's affecting companies from technology to pharma to insurance. Indeed, Marathon cites 55 industries hit by nuclear verdicts last year.

**Key Steps to Try to Nuke-Proof Litigation**

Here are a handful of strategies to help develop a no-nukes defense and minimize the risk of explosive damages verdicts.

***1. Implement a realistic and continuous case evaluation process.***

Initial case analyses are critical, but they often have a short shelf life. It is necessary, but not sufficient, to analyze the jurisdiction, the claim type and prospective damages; your opponent's track record and tactics; the legal landscape; and the jurors who will hear the case.

Developing a protocol that allows for regular reassessment, taking into account the evidence as it changes, can help you recognize when you need to create off-ramps to exit the litigation by pivoting the case strategy or pursuing an early settlement.

***2. Use focus groups.***

Defense counsel should work to discover what issues and themes resonate with today's jurors by conducting focus groups and jury research early and often in cases. Such research dissects evidence and theories, issue by issue, through the life of a case.

This allows lawyers to learn in real time what arguments, facts, issues and evidence matter to the members of the public that will actually decide the case — and to course-correct during discovery if necessary.

Focus groups, for instance, can stress test theories and arguments from both sides, and allow for adjusting the case workup accordingly.

Jurors only evaluate what's presented in court, not how a case compares to others on a company's docket. Defense counsel should conduct multiple focus groups at various stages of the case at hand to understand what will matter to the jury — in this case, on these facts, in this jurisdiction.

***3. Develop a persuasive affirmative story.***

Jurors want answers. Develop an affirmative case instead of just defending the one brought against you or saying the plaintiff can't prove theirs.

Define your core narrative early, and frame the case around a clear theme that aligns with the values and views discovered in the focus group exercises. Translate technical defenses into human terms that resonate emotionally and appeal to jurors on the grounds of fairness and accountability.

The defense story and theme need to embrace the principle that with great power comes great responsibility. Don't shrink from that; grow into it. Show the jury how you exercised responsible behavior, which will contrast with how others did not. Denials and finger-pointing lack the persuasive punch of an affirmative story.

***4. Foster honest feedback.***

Create an environment for the litigation team where sharing bad news or a contrary view is encouraged openly.

Too often, unhelpful developments in a case are downplayed or ignored. One of the many famous lines from "The Godfather" — "Mr. Corleone is a man who insists on hearing bad news immediately" — serves as an excellent model.

It is much better for a company and its management to hear bad news from its legal team early in a case, when there is time to react, rather than from a jury in a verdict.

***5. Develop likable witnesses.***

Utilize personable, empathetic trial witnesses who can acknowledge the weight and impact of this case on this plaintiff and this defendant.

It's important to address difficult facts directly and show empathy without admitting fault, so that witnesses acknowledge the seriousness of the case in a way that feels sincere.

Invest in witness preparation, going past deposition prep to discuss how jurors perceive tone and emotional cues. That doesn't mean using witnesses who are pushovers or feckless, but rather ones who can be powerful, persuasive and credible — while still being likable.

***6. Manage the damages.***

Psychological strategies can influence how jurors perceive the value of, or damages in, a case. Research shows that monetary anchors have a substantial impact on ultimate awards.[6] To counter high damage figures from the plaintiff side, defense teams should seriously consider presenting counter-anchors that are based on the facts and circumstances of this case — which is yet another issue that focus groups help flesh out.

Defense damages numbers need to be well-thought-out and based on the plaintiff-specific evidence to avoid lending credence to the argument that the defendant is low-balling or just being cheap. Enlist credible experts with plausible explanations for why their numbers make more sense.

**Conclusion**

As nuclear verdicts continue to reshape the litigation landscape, trial lawyers must evolve their defense strategies. By investing early in case evaluation, jury research, persuasive storytelling and credible damages strategies, companies can better anticipate juror expectations and mitigate the risk of outsize jury awards.

A proactive, well-calibrated no-nukes defense isn't just smart litigation strategy — it's essential risk management in today's high-stakes legal environment.

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[1] https://www.chicagotribune.com/2025/10/16/illinois-tollway-elgin-crash-lawsuit-quadriplegic/.

[2] https://marathonstrategies.com/wp-content/uploads/2025/05/Nuclear-Verdicts-Report-2025.pdf.

[3] https://www.swissre.com/reinsurance/insights/verdicts-on-trial.html.

[4] https://instituteforlegalreform.com/wp-content/uploads/2024/05/ILR-May-2024-Nuclear-Verdicts-Study.pdf.

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[6] https://www.fhtrial.com/insights/posts/anchoring-and-the-undeniable-impact-on-jurors/.