Reform the “Scaffold Law”

**Problem:** New York Labor Law 240/241, or the “Scaffold Law,” imposes total and virtually inescapable civil liability upon property owners and contractors for gravity-related construction accidents, and any contributing fault of the employee for the injury is not considered in court. New York is the only state in the nation with such a law.

**Solution:** Distribute liability in proportion to fault, as is the case in all other states and all other aspects of our civil justice system.

Honesty in Asbestos Litigation

**Problem:** New York law does not require plaintiffs in asbestos actions to disclose whether they previously recovered from trust funds. Often lawyers will seek recoveries from both the tort system and the trust system alleging conflicting or even outright fraudulent claims. Lack of transparency encourages widespread abuse, stealing funds intended for the legitimately harmed.

**Solution:** Require increased transparency for asbestos trust claims and stronger safeguards to prevent abuse of the system.
**Problem:** Under current law, lenders who offer cash advances to injured parties while they await the settlement of a lawsuit are able to charge predatory and usurious rates. After paying back the loan and their attorneys, the injured are often left with next to nothing.

**Solution:** Regulate the practice of cash advances for pending lawsuits by subjecting third party litigation finance firms to the consumer protection interest rate.

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**Raise Standards for Evidence**

**Problem:** (1) New York’s antiquated standard of evidence predates the Great Depression, and requires only that theories of evidence be “widely accepted.” This standard is inadequate for the 21st century, and allows lawsuits predicated on unsound theories. (2) Additionally, New York lacks a statewide time frame for disclosure of expert witnesses. Disclosure is deliberately withheld in order to coerce defendants into a settlement without knowledge of the strength of the case against them.

**Solution:** (1) Require evidentiary theories to be based on scientifically verifiable methods, the “Daubert standard,” as is the case in Federal court and a vast majority of other states. (2) Require disclosure of experts well before the date of trial.

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**Link Judgment Interest to Market**

**Problem:** In New York, judgments accrue interest at a rate of 9% annually for as long as a case is pending. This fixed rate does not account for changing market conditions, and dramatically inflates award values while creating a strong disincentive for defendants to appeal a ruling.

**Solution:** The interest rate must be linked to the federal funds rate.