



# INTERNATIONAL CASUALTY PREDICTIONS 2025

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## 1. Algorithms and addiction - Action against social media platforms will gather pace

The first bellwether trial against social media companies for addictive product design and other allegations will potentially upend traditional principles on product liability, design of digital products and corporate responsibility. The trial is part of US multi-district litigation brought on behalf of children and scheduled to take place in late 2025. The action alleges intentional creation of products with addictive engagement, driving compulsive use and algorithmic manipulation, resulting in various physical and emotional harms, including death. European regulators, rather than litigators, are challenging social media platforms with the European Commission opening formal proceedings under the Digital Services Act. While we do not expect civil claims to necessarily follow in Europe, the impact of the Representative Actions Directive may alter perceptions on pursuing these types of claims.

## 2. Regulation of litigation funding will increase in the EU and US

Litigation funding in the United States and European Union will face growing regulatory pressures as increased use is balanced with demands for transparency. The long-awaited introduction of minimum standards for funders operating in the EU remains an ongoing task for the European Commission. Although the Representative Actions Directive includes a safeguard against funding agreements compromising the interests of consumers, the need for clear regulatory structures remains necessary. Measures such as disclosure of funding sources and structures are currently jurisdiction-specific, creating the risk of forum shopping. In the United States, an increasing number of states have placed additional controls on the use of funding. We expect this to continue, with measures likely to include licencing funders and increasing transparency of funder identities, agreements and structures. Efforts to introduce federal legislation, such as the proposed Litigation Transparency Act of 2024, have so far been limited.

## 3. 'Just transition' claims will become more prominent

The transition to renewable energy will generate litigation based on the environmental and pollution risks involved in increased mining and extraction of transition-necessary materials. A number of such climate-related actions have been identified as 'just transition' claims. These actions are directed at the behaviour of governments and companies engaged in pursuing the development of renewable energy, while aiming to protect local communities and environments from any adverse effects. One lithium extraction project in the United States is being challenged, despite the extraction method being identified as less-environmentally damaging than traditional mining methods. Looking forward, liability insurers need to be mindful of their exposure to such claims.

## 4. Glyphosate resolution may be found in the Supreme Court

Recent successes in strategic glyphosate litigation may prompt Bayer to push for a US Supreme Court ruling that federal law supersedes conflicting state law requiring glyphosate-based products to carry warnings of cancer risks on their labels. During the registration of Roundup weedkiller, the Environmental Protection Agency approved product labelling omitting a cancer warning under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Bayer accepts that current claims may be settled where there is an economic advantage. However, the company publicly states that "a favorable [sic] ruling by the US Supreme Court on the federal pre-emption question could largely end the Roundup litigation"



## 5. The line will blur between moral damages and punitive damages


The growing number of nuclear verdicts will prompt further lobbying by defendant organisations to progress tort reform in the US at state and federal levels. Civil juries continue to award multi-million and billion-dollar verdicts, arguably aimed at punishing defendants rather than compensating claimants. These awards are often significantly reduced on appeal, creating uncertainty for defendants, their insurers and plaintiffs. One such instance saw a reduction in a glyphosate-related cancer claim from \$2.25 billion to \$400 million. Any efforts to reduce awards for punitive damages may prompt reconsideration of other tortious concepts including moral damages. Although punitive damages in civil cases are largely limited to the US, there has been a move towards awarding increased moral damages to reflect serious cases of negligence and the protection of human rights in Latin America, particularly Mexico. In the event of tort reform limiting punitive damage awards, US plaintiff representatives may look to develop a similar concept of moral damages in order to maximise compensation for their clients.





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