

JURISDICTIONAL ANALYSIS

TIME TO TRIAL, FAVORABLE COURTS, AND OTHER LITIGATION TRENDS

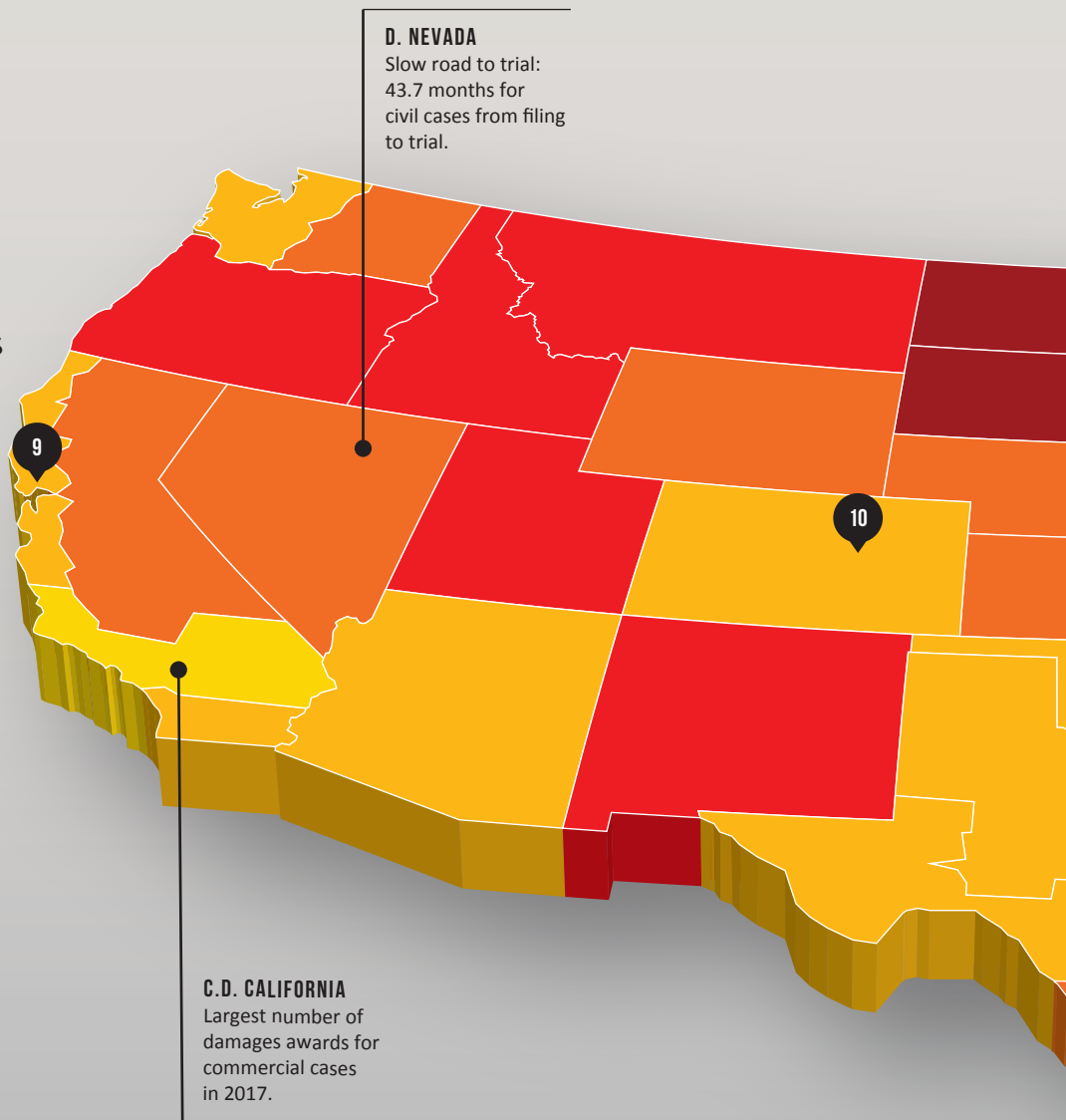
“The future will be determined in part by happenings that it is impossible to foresee; it will also be influenced by trends that are now existent and observable.”

—Emily Greene Balch

California currently has the most FCA cases by state.

UNITED STATES COURTS OF APPEALS

CIRCUIT	NOTICE OF APPEAL TO DISPOSITION IN MONTHS	S. CT. REVERSAL RECORD
1ST	12	0 OF 1
2ND	10	4 OF 5
3RD	9.2	2 OF 2
4TH	5.1	1 OF 2
5TH	9.4	2 OF 4
6TH	7.9	6 OF 7
7TH	7.3	2 OF 2
8TH	6.8	2 OF 2
9TH	13.3	7 OF 8
10TH	7.7	3 OF 3
11TH	6.6	3 OF 5
DC	11.4	2 OF 3
FED.	13	6 OF 7





While past events are no guarantee of the future, certain litigation trends can be useful barometers. For example, the national downward trend for patent litigation has continued since the advent of the America Invents Act. But while the overall trend is downward, E.D. Texas still maintains its place as the most popular location for new patent cases—at least for now. But that trend may not hold. Patent case filings in D. Delaware have exploded due to the Supreme Court’s May 2017 decision in *TC Heartland*, and Delaware is now a close second to E.D. Texas. N.D. California

also saw a dramatic rise in patent filings. Instead of flocking to E.D. Texas, patent owners are pivoting to D. Delaware and N.D. California, where venue can be established based on corporate headquarters. While E.D. Texas may still have more total IP filings due to its pre-*TC Heartland* head start, since that decision, Delaware has had the most filings and that trend will continue. Another trend is the dramatic increase in antitrust filings in E.D. Pennsylvania, which is largely due to the many pharmaceutical companies based there, and the *In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, which is ongoing.

—[KEITH HARRISON](#), Partner, Crowell & Moring

