



## News

### In Op-Ed, Hinshaw's David Levitt Calls for Change to Fault Apportionment Law in Illinois

May 15, 2020

In an op-ed published by the *Chicago Daily Law Bulletin*, Hinshaw partner David Levitt and Donald Eckler of Pretzel & Stouffer called for the adoption of SB 3148, which would change the law in Illinois regarding fault apportionment in negligence cases.

As Levitt and Eckler describe, the current Code of Civil Procedure codifies a "fundamental unfairness" to defendants in which comparative fault is an issue. Under the code, when assessing comparative fault by the plaintiff, the jury is to evaluate the fault of non-parties because "it is essential for determining liability commensurate with degree of total fault." However, when it comes to assessing comparative fault by a named defendant, the jury can only consider other remaining defendants; and the fault of settling parties or a plaintiff's employer is to be disregarded.

Levitt and Eckler also note that while juries are instructed about the consequence of finding that a plaintiff is more than 50% at fault, no such instruction is provided regarding the 25% threshold for imposing joint and several liability on a defendant.

The authors conclude that until this unbalanced unfairness is corrected, justice in Illinois' civil justice system will be lacking.

[Read the full op-ed on the CDLB website](#) (*subscription required*)

"Justice requires a change to fault apportionment in Illinois" was published by the *Chicago Daily Law Bulletin*, April 29, 2020.

In a [follow-up op-ed](#), Levitt and Eckler consider the collision of law and politics in the evolution of Illinois' fault apportionment scheme.

#### Attorneys

David H. Levitt

#### Offices

Chicago