

National Federation of Independent Business: The Unimportance of “Tort Reform” to Small Businesses

The National Federation of Independent Business (NFIB) is a lobbying group that “represents 325,000 small businesses in all 50 states and Washington, D.C.” It claims to be “the only major business organization whose policies and positions are established by the members directly, not by executive staff or the Board of Directors. That’s what makes us credible, widely respected, and effective.”¹

Small Business Problems & Priorities, 2016 Survey²

Every four years, NFIB publishes a member survey “to provide parties outside NFIB an accurate picture of small-business owner concerns. Claims are often made regarding the problems and interests of small-business owners with little or no empirical evidence to support them. If there is no systematically collected data to establish a benchmark, these claims can mislead and attribute concern when little exists (and vice versa). The data in *Problems and Priorities* therefore provide a standard against which others can measure their hypotheses.”³

National results. NFIB members were asked to rate the importance of 75 issues on their operations. “*Cost and Frequency of Lawsuits/Threatened Lawsuits*” ranked **68th**. It was listed among the problems of **least concern** to small business members.” Indeed, this issue was of less concern to small businesses than “Access to High-Speed Internet” (#66).

- According to the survey report, “The 68th ranking belongs to ‘Cost and Frequency of Lawsuits/Threatened Lawsuits,’ up three positions from [2012].”
- NFIB created 10 small-business problem clusters containing all the survey’s problems related to that topic. “Cost and Frequency of Lawsuits/Threatened Lawsuits” ranked *last* in importance among the 20 problems that fell under the “Costs” cluster.
- Regardless of business sector, “Cost and Frequency of Lawsuits/Threatened Lawsuits” ranked low on the list of concerns across all industries.⁴
- “Cost and Frequency of Lawsuits/Threatened Lawsuits” consistently ranked low in importance regardless of number of years of business ownership – #70 for those with ≤ 3 years of business ownership, #72 for the 4-5 year group, #72 for the 6-10 year group, #70 for the 11-20 year group and #67 for the ≥ 21 years group.

State-specific results: California. “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked very low on the list of concerns...#63 out of 75 problems.

State-specific results: Ohio. “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked very low on the list of concerns...#66 out of 75 problems.

State-specific results: Texas. “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked very low on the list of concerns...#66 out of 75 problems.

All Years - Survey Trends

Time and again, lawsuits rank low on the list of NFIB small-business owner concerns, if at all. More specifically,

- In 2016, “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked 68th, right after “Bad Debts (not delinquencies) and/or Bankruptcies.”
- In 2012, “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked 71st, right after “Using Social Media to Promote Business (Facebook, Twitter, etc.)”
- In 2008, “Costs and Frequency of Law Suits/Threatened Suits” ranked 65th, right after “Solid and Hazardous Waste Disposal.”
- In 2004, “Costs and Frequency of Law Suits” ranked 64th, right after “Solid and Hazardous Waste Disposal.”
- In 2000, 1996, 1991, 1986 and 1982, “lawsuits” was not even included on the list of concerns for members to consider.

¹ National Federation of Independent Business, “What We Stand For,” <http://www.nfib.com/about-nfib/> (viewed February 12, 2017).

² National Federation of Independent Business, *Small Business Problems & Priorities* (August 2016), <http://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>

³ National Federation of Independent Business, *Small Business Problems & Priorities* (August 2016), <http://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>

⁴ “Costs and Frequency of Lawsuits/Threatened Lawsuits” ranked as follows by industry: #63 (Agriculture, Forestry and Fishing), #67 (Construction), #69 (Manufacturing), #73 (Wholesale Trade), #72 (Retail), #60 (Transportation/Warehousing), #48 (Finance, Insurance, Real Estate, Rental), #65 (Professional Services) and #71 (Non-Professional Services). National Federation of Independent Business, *Small Business Problems & Priorities* (August 2016), <http://www.nfib.com/assets/NFIB-Problems-and-Priorities-2016.pdf>