

Litigation Spending To Keep Growing As Biz Risks Run High

By Jack Karp

Law360 (September 18, 2025, 12:01 AM EDT) -- Companies are likely to increase their spending on litigation next year, some by over 10%, as legal disputes become more complex, more contentious and more high-stakes, according to a new report out Thursday.

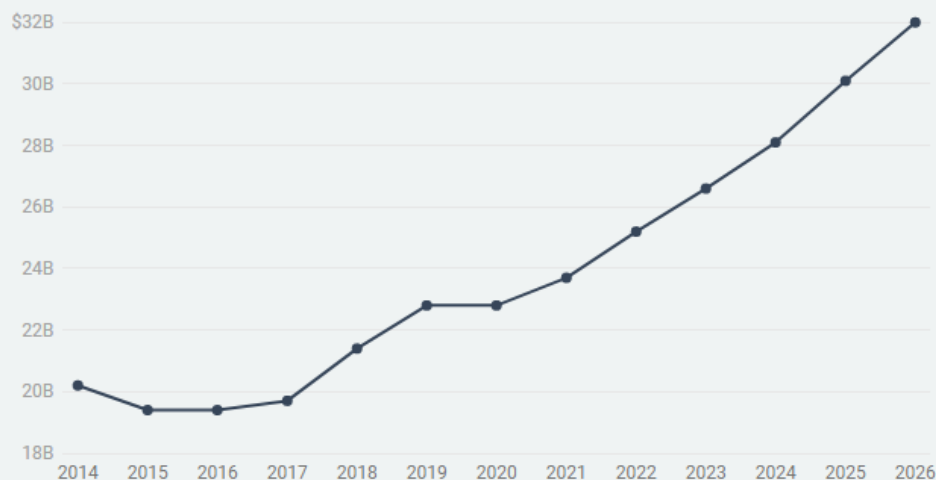
Sixty-four percent of law firms' clients say they are planning to increase what they spend on litigation in 2026, up from the 57% that said the same a year ago. More than two-thirds of those companies that are growing their litigation budgets anticipate spending at least 10% more on cases in the coming year, according to BTI Consulting Group's Litigation Outlook 2026.

As a result, total U.S. litigation spending is expected to hit \$32 billion next year, compared to \$30.1 billion in 2025 and \$28.1 billion in 2024, outpacing the growth in caseloads and continuing an upward trend that's been fairly consistent since 2016, according to the report.

Litigation Spending Continues to Grow in 2026

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— Total U.S. litigation spending



"Litigation is having more of an impact on clients' revenue, operations and growth, raising the financial stakes and supporting ultra-high rates because business risks are so high," BTI founder and President Michael B. Rynowecer told Law360 Pulse.

The business risks litigation poses are increasing because the size of claims is growing, new and novel issues are calling for new and novel defenses, and litigation is more often affecting companies' business operations, according to BTI's report.

Cases are also becoming more contentious as plaintiffs are less inclined to settle disputes they think they're likely to win, and clients are expanding their definition of what constitutes bet-the-company litigation, according to the report, which points out that 31.2% of clients have faced bet-the-company matters in 2025, compared with just 14.1% in 2023.

"Litigation is more contentious than virtually any corporate counsel can remember because a loss can negatively impact client growth and transformation — and the financial risks are greater," Rynowecer said.

The Litigation Outlook report is based on surveys and telephone interviews conducted primarily between February and August with general counsel and other legal decision-makers at large organizations with \$1 billion or more in revenue.

Those decision-makers say they expect spending on employment-related litigation to increase the most, growing by 8.2% to \$9.77 billion in 2026. That growth is being driven by reverse discrimination claims and the controversies surrounding diversity, equity and inclusion policies; wage-and-hour and gig economy classification disputes; and conflicting government mandates, according to BTI.

"Clients see a near avalanche of employment litigation from changes in policy regarding discrimination and reverse discrimination claims," Rynowecer said. "In addition, clients report more aggressive changes in state regulations."

But new technology will also drive employment litigation spending higher, with companies facing lawsuits over artificial intelligence bias in hiring and privacy claims related to wearables and surveillance, BTI predicts.

In fact, the impact of technology will be apparent in a wide range of matters, with AI generating a whole new set of claims touching on everything from contracts to data privacy, according to Rynowecer, who said, "These claims are just beginning."

More than 350 of the legal decision-makers who responded to BTI's survey said they anticipate that AI-generated content and deepfakes, AI-fueled intellectual property battles, the unauthorized disclosure of data by generative AI, and access to AI training information will impact cases in a variety of other practice areas as well.

"Artificial Intelligence will drive a new wave of litigation, as its use creates many new litigation risks for businesses that span a range of potential data, bias, IP, and regulatory exposure issues," echoed Trey Cox, co-chair of the litigation practice group at Gibson Dunn & Crutcher LLP, one of four firms BTI said attorneys most fear having to face off against in court.

Practice Segments Set to See the Most Growth

Controversy around DEI initiatives, increasing use of artificial intelligence, tariffs and conflicting government regulations are expected to drive growth in these practice areas in 2026.

Practice segment	2026 projected growth	2026 projected market size
Employment litigation	8.2%	\$9.77B
Commercial litigation	6.7%	\$9.69B
Class actions and torts	5.8%	\$4.8B
IP litigation	4.2%	\$3.64B
Cybersecurity litigation	7.8%	\$3.37B
Product liability litigation	5.2%	\$3.02B
Securities and finance litigation	7.1%	\$2.53B
Bet-the-company litigation	6.1%	\$1.69B



Source: BTI Consulting Group • Created with Datawrapper

Spending on cybersecurity litigation is expected to rise by 7.8% to \$3.37 billion, while spending on securities and finance matters could jump 7.1%, to \$2.53 billion, according to the report. Commercial litigation spending is expected to increase by 6.7%, to \$9.69 billion, according to the report.

While litigation arising out of technology matters continues to dominate, attorneys at Quinn Emanuel Urquhart & Sullivan LLP — another of BTI's most-feared firms — are also seeing significant growth in bankruptcy litigation, data privacy matters, mergers and acquisitions-related litigation, Delaware-based litigation and securities litigation, Michael B. Carlinsky, the firm's global co-managing partner and head of complex litigation, said.

That litigation is likely to get more complex and novel, and to be driven by tariffs, supply chain issues, the failed implementation of technology, and the unraveling of joint ventures and partnerships. The law firms that land that work will offer quick assessment and action, new and aggressive approaches, and creativity in tackling novel issues, the report added.

"The old playbooks are officially obsolete — or limit firms to lower-rate work," BTI said, adding, "The winning pitches are built around brainstorming solutions, problem solving, and expediting legal processes. Anything else only proves a firm can't act as quickly as clients make decisions."

Many of those winning pitches are coming from four law firms that corporate counsel and other legal decision-makers say they most dread having to face off against in litigation.

Quinn Emanuel was named the most feared law firm for 2026, the fourth year in a row the firm has landed that title, while Kirkland & Ellis LLP, Skadden Arps Slate Meagher & Flom LLP and Gibson Dunn

rounded out the firms named to BTI's so-called "Fearsome Foursome."

The "Fearsome Foursome" is made up of the four firms clients have told BTI they least want to see on the other side of the table during litigation, and this year's quartet is composed of the same firms that made it up last year.

"This distinction reflects our unwavering commitment to putting our clients first and delivering exceptional legal service. A testament to this dedication is our recent victory for CME Group Inc. and the Chicago Board of Trade in a high-stakes class action lawsuit jury trial, where we successfully defended against claims seeking over \$2 billion in damages," said James R. Carroll, Skadden's global head of litigation and controversy practices in the Americas. "At Skadden, our priority remains achieving the best possible outcomes for our clients, no matter the complexity or scale of the challenge."

Gibson Dunn litigation co-chair Theane Evangelis said that "we consistently take on the cases involving the most complex, cutting-edge issues facing businesses today. What sets us apart is our relentless focus on building strategic trial-ready and appellate litigation teams that work across practices, offices, and specialties, and that are tailored to the needs of each case and bring big synergies to the table."

At Quinn Emanuel, Carlinsky said "we approach cases differently from the outset. From the beginning, we're thinking about how to prepare the case and best position our clients for a win or a successful resolution. We also provide our young lawyers — who are among the most talented associates in the profession — with early hands-on litigation experience. It is common to find our associates in court conducting an argument or trying a case against senior partners of other firms."

"Our litigation opponents know that when they face Kirkland in court, they're in for a battle. We train our litigation attorneys from day one to try cases and we have trial experience and depth at every level of seniority," Kirkland litigation partner Judson Brown told Law360 Pulse.

Corporate counsel are not optimistic that all that litigation is likely to be settled, according to the report, which projects that just 42% of matters will be resolved through settlement in 2026, compared to 46.1% of matters in 2025.

Plaintiffs are less inclined to settle since they expect to win cases, and there's concern about setting precedent for new and novel claims, according to the report. The increasingly hard-fought nature of litigation and higher risks to revenue and growth are also creating the belief set that settling will prevent clients from moving ahead on strategic and operating goals, Rynowecer explained.

Kirkland is taking more cases to trial than ever before, confirmed Brown.

"The contentious nature of the new litigation translates into higher risk as all parties fight harder to win," Rynowecer said.

It also translates into record-level spending on litigation and skyrocketing litigation budgets, according to the report.

"The winners will be those who deliver speed, precision and bold thinking — not just arguments," BTI said.