

A Recipe for  
*Balanced*  
Tort Reform



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*Early Offers with Swift Settlements*

Jeffrey O'Connell  
Christopher J. Robinette

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# Dedication

To my grandchildren, Dylan, Eamon, and Maeve Duke and Virginia Mae O'Connell who give me a peek far into the future.

To my parents, Kim and Billie Robinette, without whom, in so many ways, this would not be possible.



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# Foreword

This book focuses first on the severe shortcomings of litigation in cases of personal injury, especially, but not exclusively, in two areas of law that have mushroomed in recent decades: medical malpractice and product liability. Having exposed tort law's flaws, we focus next on the unfortunate shortcomings of the many one-sided tort reforms, both proposed and effectuated, that favor exclusively either defendants or claimants. Finally, we focus on an "early offers reform." We document its beneficial effects on tort law's costs and related burdens of unnerving uncertainty, long delays and high transaction costs. As such, early offers reform merits at least serious legislative consideration, seeking as it does to balance the three traditional goals of tort law—compensation, deterrence and fairness—while also carefully balancing the interests of both claimants and defendants.

We do not focus on the phenomenon of class actions, although the early offers reform might be adapted to some such litigation, a possibility we do not explore. Nor do we focus all that much on auto accidents, although we do allude to at least the possibility of including such cases in the early offers reform. Admittedly then early offers reform may be better suited to some areas of tort law than others.

Jeffrey O'Connell  
Christopher J. Robinette



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