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Banks Jump on the Personal Injury Bandwagon While Decrying the Trial Lawyers They Fund

According to the New York Times, bankers are jumping into the personal injury lawsuit business along with hedge funds and private investors. The list of those banking institutions embracing the much maligned personal injury trial lawyers for their own profit is noteworthy, if not surprising.

According to the New York Times, Counsel Financial of Buffalo is the largest such personal injury lawsuit finance company with $200 million in lawsuit financing loans outstanding. Counsel charges annual interest of 18% on the loans. Counsel is financed through Citigroup. Joining the ranks of Citigroup are Credit Suisse and Deutsche Bank among others. It is perhaps safe to assume that each is a card-carrying member of the United States Chamber of Commerce though I could find no membership rolls for the Chamber.

Why is this relevant? The US Chamber is the chief proponent of Tort Reform in the United States. The New York Times article cites Lisa A. Rickard of the Institute for Legal Reform, a creation of the United States Chamber of Commerce for the promotion of Tort Reform, "It sends shivers down the spines of general counsels all across the globe."

Apparently, many companies spurred on by the myths of lawsuit abuse created by the US Chamber and the Tort Reform movement fear that these lenders will go beyond mere financing and begin to solicit lawsuits. And why wouldn't they?

According the New York Times Article, Counsel made a profit of $11 million on a $35 million loan to help finance the ground zero worker lawsuit. With returns like that, more and more banks, many of whom are members of the Chamber and staunch supporters of Tort Reform will jump on the bandwagon.

It is estimated that there are one billion dollars in lawsuit loans outstanding at any given time. Of particular note is investment in medical malpractice cases and class action lawsuits. It is more than ironic following the recent election cycle where the US Chamber, along with its members, have perennially led the drum roll blaming trial lawyers for the strain on businesses of class action lawsuits and the constant harping about the mythological medical malpractice crisis.

In the true spirit of capitalism, Courts have ruled that it is not illegal for these financiers to drum up lawsuits themselves. These courts are not just from liberal jurisdictions like Massachusetts, but from Texas, South Carolina and Ohio who have led the way in medical malpractice limitations and caps among other Tort Reform style initiatives.

Of course, the costs of financing are carried by the plaintiff in the case of a victory at trial, and the lawyers in case of a loss. The creditors get paid either way. Most remarkable, the article cites numbers and cases showing that in many cases, the costs of financing resulted in net losses to the plaintiffs despite trial victories. In other cases where the cases were lost, lawyers were forced into bankruptcy.

The logic is clear. So long banks get paid, all is well in the world of Tort Reform. It seems almost inevitable that there will soon be attacks on the trial lawyers fees despite the high risks of litigation and their liability on the loans despite the outcome. This has already begun with attorneys being forced to carry the costs of the financing in the Ground Zero litigation. Rest assured, there will be no similar movement to limit the interest rates on these loans.

Read the story at New York Times

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

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