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Tort Reform Ignores Bad Corporate Behavior: Case in Point, Toyota!

The Albuquerque Journal reports that Toyota officials bragged about the $100 million it saved by negotiating with the government for a limited recall related to the problem with sudden acceleration of its vehicles. It is reported that internal corporate memorandum noted the limited recall of floor mats among "Wins for Toyota - Safety Group." The limited recall was in lieu of the broader recall associated with product and design defects with accelerator pedals and brakes.

The New York times further reported that Leading Democrats on the House Energy and Commerce Committee alleged that Toyota had relied on flawed studies in dismissing the possibility that computer issues were possibly the cause of sticking accelerator pedals on millions of cars. It then issued misleading statements to Toyota owners minimizing the problem.

It is estimated that there have been over 2000 incidents and over 30 deaths involving uncontrolled and sudden acceleration of Toyota and Lexus vehicles. One of the more notable incidents occurred in August 2009 causing the death of a California police officer and three of his family members. This incident led to much of the impetus behind the investigation of the defective vehicles.

Toyota's irresponsible, callous and dangerous indifference to the safety of its consumers points to the flaws in the Tort Reform movement. Tort Reformers cast trial attorneys as a plague on society. In reality, trial attorneys as Toyota will soon find, act as a check on corporate greed. Without product liability law developed compliments of trial attorneys over the past 50 years, corporations would use the same ruthless economic calculus that appears to be at work in the consumer safety decisions of Toyota. Unfortunately, the reality is that purely financial analysis of consumer safety rarely benefits consumers.

In fact, viewing the calculation, 19 deaths might have appeared acceptable from Toyota's math. What is the value of 30 lives? Toyota clearly thought it was less than $100 million. How many lives are worth $100,000 million in savings?

Compensatory damages alone should top the $100 million in savings. But the real problem for Toyota is punitive damages. Punitive damages provide the real deterrent to irresponsible corporate greed that, as in this case, can lead to defective products in the marketplace. Punitive damages are meant to deter future bad behavior both for the defendant and others prone to engage in similar behavior. Punitive damages are a function of bad behavior and corporate income. Punitive damages, where morality fails, dictate that the safety of consumers enter the profit equation. Perhaps Toyota failed to anticipate that its decision-making processes would become public, but it is these processes that justify punitive damages.

Fortunately for New Mexico consumers, New Mexico courts and judges are prone to protect consumers and the general public. In fact, New Mexico has been designated a "judicial hellhole" for corporate defendants, something for which its citizens should be thankful. Though these cases will land in federal court, the federal court will apply New Mexico law on punitive damages. New Mexico's law on punitive damages does not look favorably on corporate behavior that puts the safety and lives of New Mexico consumers at risk.

Assuming the reports of the Albuquerque Journal and New York times are accurate, if there was ever behavior suggesting punitive damages, Toyota's weighing of costs and benefits of fixing known defects in its vehicles demands them.

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