

"Justice In America"
Tort Reform

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Justice in America is under attack like never before. Big corporations seeking to eliminate accountability have spent billions of dollars to convince the public that the civil justice system is broken and is even a burden on our health care system, economy and society as a whole.

These big corporations, their front groups and phony think tanks - some of the most powerful and well-funded in the country - are working to eliminate the right of Americans to hold wrongdoers accountable. Their ultimate goal is to evade responsibility for negligence to increase their bottom lines. They will stop at nothing to achieve their goal.

For the past 200 years, America's civil justice system has provided every citizen, both rich and poor, with a fair and impartial way to redress wrongs. Our courts are the great levelers of our society. In our courts, all men are equal. We all hold these truths as self evident. We believe that if wrongdoers injure us, that we can turn to our courts for a fair way to redress wrongs.

Most of us try to settle our disputes without use of the courts. In fact, many clients that come to see me say things like "*I did not want to have to do this*"; "*I never thought I'd have to file a lawsuit against my own insurance company*"; "*I never thought my employer would mistreat me*"; and "*I'm sorry that I'm going to have to file a claim.*" Most of us think that if we suffer from the acts of a wrongdoer, that our laws will protect us. Americans believe that our system is fair and

that we can get justice and hold wrongdoers accountable for their actions.

Ladies and gentlemen, justice in America is under ferocious attack by big corporations. Large corporations are seeking to have laws passed and regulations implemented that will restrict accountability for their actions. They are seeking to avoid being held accountable for wrongdoing in many instances. These corporations have spent billions of dollars to convince you that the civil justice system is broken, and in fact, that it's even a drain on society or a burden on society.

How do big corporations do this? They do it through phony front groups. They use names like the Institute for Legal Reform, American Justice Partnership, Safety and Prosperity Coalition, and one that's recently been used in Alabama is called Alabama Voters Against Lawsuit Abuse. Their purpose is to convince you that our justice system is broken and that juries, who have served our country so well for over 200 years, can no longer be trusted in civil cases.

For the past 20 years or more, this tort reform message has gone largely unchallenged. There have been few organizations actively representing consumers, but we've all heard about "*greedy trial lawyers*" and "*frivolous lawsuits*." Well I'm here to tell you that finally people and organizations are questioning the motives of large corporations who seek to evade responsibility for their actions.

Our goal is to educate the public about the serious threat to justice, the motives of those who want to destroy it and the efforts of trial attorneys to ensure that any person who is injured by the misconduct or the negligence of others can get justice in the courtroom, even when taking on the most powerful interests.

Our efforts are more important now than ever, because the drug and oil industries, big insurance companies and other large corporations dominate our political process, and thus, people cannot depend on the political system to hold corporations accountable. When corporations and their CEOs act irresponsibly by delaying or refusing to pay fair and just insurance claims, producing unsafe products, polluting our

environment or swindling their employees or shareholders, the last resort for Americans to hold them accountable is in our courts.

We're seeking to maintain a level playing field in the courts. We've all heard the story of David and Goliath. Well, the courtroom is one of the only places where David can be equal to Goliath. All of us are Davids at some time during our life. In our courtrooms, we must have a level playing field and the laws must be equally applied. The second thing we're seeking is to maintain laws that hold wrongdoers accountable. When you and your family suffer because of the actions of a wrongdoer, the wrongdoer must be accountable.

What we're faced with is a very simple question. Should we have a system where wrongdoers are held accountable for their actions, or should wrongdoers be allowed to evade the consequences of what they have done so that their companies can make more money?

What are the consequences if tort reformers continue to get their way and continue to get laws passed that eliminate the rights of the average Americans? First, it shifts the responsibility for their wrongdoing to the families that have been affected. Every time a terrible wrong occurs, you say to yourself "*Thank God that's not me*"; "*Except for the grace of God, that would be me*"; "*Except for the grace of God, there go I.*" Remember, we are in this together and it could be any of us. So, if corporations continue to pass more tort reform, they're shifting the responsibility for their wrongdoing first to the people who are injured.

Let me tell you what happens to the families. First, they can't afford to pay all those giant medical bills. They lose their job and their income stops. After a few months, their Blue Cross is cancelled. Soon they can't pay the mortgage on their house and it is lost. They lose their car. The wife and husband get a divorce. They can't afford to provide properly for their children. The husband, if he's the breadwinner and the injured person, ends up on Social Security or on Medicare or Medicaid. Guess who pays for Medicare, Medicaid and Social Security? Every citizen. Tort reform shifts the burden from those who are wrongdoers to the people that are injured and once it takes all their

assets, it shifts the financial burden to the general population. It allows the actual wrongdoer to evade responsibility for what they have done. I think that is wrong. In America, responsibility for your actions is a primary tenant. It's an article of faith. It's what we all believe in. We believe that every person is responsible for what they do and what they have done.

I want to tell you a few truths about the civil justice system. First, for the past 15 or 20 years, big corporations and their political allies have engaged in what I consider very overbearing tactics and vicious tactics when attacking our jury system. Another truth is that when these corporations and their CEOs act irresponsibly by swindling somebody or putting an unsafe product into a consumer's hand and a child is injured or killed, or when your own insurance company refuses to pay a just and fair insurance claim, the last resort for an American family is to hold the corporation accountable in our courts. That's a tenant, an article of faith that we as Americans live by. That's our last chance. Another truth about the civil justice system is that trial attorneys seek to insure that every person can seek reasonable justice and hold wrongdoers accountable for their actions. Trial attorneys seek to have a level playing field where 12 jurors from our community make decisions, even when individuals go up against the most powerful corporations in our society. Trial attorneys are committed to strengthening our civil justice system and will not let it be destroyed. Tort reformers are trying to destroy a very precious right. It's your right to have justice. Trial attorneys want deserving individuals to find justice in the courtroom and they want wrongdoers to be held accountable.

The existence of the civil justice system and a courthouse with open doors acts as an incentive for wrongdoers to act responsibly. If a potential wrongdoer has a plan to swindle somebody out of their retirement funds, knowing that they can be held accountable for their actions serves as a strong incentive for them to act responsibly, and in many instances, prevents someone from becoming a wrongdoer.

Large corporations and tort reformers don't want to be held to the same standards that you and I must live by. Democracy for them is

simply an obstacle in their path to power and profit. It is something to be overcome.

I'm going to tell you tonight a story about a man named Frank Cornelius. Frank Cornelius, in 1975, was a highly paid lobbyist for the insurance industry. He lived in Indiana. The insurance industry hired him to persuade the Indiana legislature to pass a law capping medical malpractice damages at \$500,000. No matter what happened to you, the most you could get was \$500,000. We have those kinds of laws in Alabama. Frank Cornelius was really good in his profession. He persuaded the legislature to pass the law in 1975 and the Governor of Indiana signed it into law. Frank Cornelius argued that such limits would reduce health care costs and encourage physicians to stay in Indiana.

Fifteen years later, in 1989, Frank Cornelius was at his office when he fell out of a chair and injured his left leg. He had routine arthroscopic surgery. He came out of that surgery in a terrible condition and was diagnosed with RSD (reflex sympathetic dystrophy). That's a condition that normally occurs because of trauma or infection. It often occurs because of surgery. Shortly after the surgery and in the same hospital, a physical therapist shocked him while he was in rehab. Then he had to have more surgery because he developed a blood clot. Shortly after that, his doctor punctured his lung. By this time, he needed an oxygen tank to breathe, was confined to a wheelchair, and was addicted to painkillers. Several months later, this man filed a medical malpractice case. He got \$500,000, the maximum. Frank Cornelius committed suicide about 2 or 3 years ago. I'm sorry to tell you that, but he did. His life had become so horrendous. This is the kind of story we don't even want to read about.

Before Frank Cornelius' death, *The New York Times* published an article about his life. Mr. Cornelius wrote "*At age 49 I am told I have less than 2 years left to live. My medical expenses and lost wages, projected to retirement if I should live that long, come to more than 5 million dollars. Claims against the hospital and the physical therapist have been settled for a total of \$500,000, the limit on damages for a single incident of malpractice. The legislature has raised that cap to*

\$750,000 and I may be able to collect some extra damages if I sue those responsible for the August, 1990 incident that nearly killed me. But apparently because of bureaucratic inertia the state medical panel that certifies such claims has yet to act on mine. The kicker, of course, is that I fought to enact the very law that limits my compensation. All my suffering might have even been worthwhile, on some cosmic scale, if the law had accomplished its stated purpose, but it hasn't." Tort reformers said it would reduce health care costs and help doctors stay in the state. It didn't do anything but make big corporations, in this case insurance companies, millions of dollars. The man that actually pushed for this law paid the ultimate price. He was a victim of his own reform. His name is Frank Cornelius. That is a true story and illustrates what tort reform can do to the average citizen.

Everything I'm talking about comes from the greatest book on earth and that's the Holy Bible. I looked up a few Bible verses regarding justice. These include:

Micah 6:8, which I think is one of the best verses in the Bible, says:

"What does the Lord require of thee? To do justice, to love mercy, and to walk humbly with your God." The very first thing that God requires of all of us is to do justice.

God's command in Isaiah 1:14-17 is to *"seek justice, correct oppression, defend the fatherless, plea for the widow."*

Psalms 82:3 says to *"Defend the poor and fatherless, do justice to the afflicted and needy."*

Exodus 23:6 tells us *"Do not deny justice to your poor people in their lawsuits."*

We have a right as Americans to have justice when we suffer at the hands of wrongdoers. Your legal rights are under attack like they have never been attacked before. You have the opportunity to weigh this question. Do you want to give up your rights so corporations can make more money or do you want to keep the right to hold wrongdoers accountable for their actions? I encourage you to keep the courthouse door open. Justice is very precious. Most of us are like the people who

come to see me. They never think it'll happen to them. They don't want to sue anyone. They never see themselves as a plaintiff. When it happens to you or your family, pray that the tort reformers have not totally closed the courthouse door on the American citizens. Pray that you still have the right to take a case with merit and present it to 12 of your fellow citizens and see if wrongdoers can be held accountable for their actions.