

NEW MEXICO INJURY ATTORNEY BLOG

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Personal Injury, Insurance Coverage and the Lies of Tort Reform

The Tort Reform movement paints every personal injury claim as an assault on small business, doctors, health care, the public, the very American way of life. Every jury verdict is claimed as a victory of greedy trial lawyers and opportunistic plaintiffs who are just trying to profit at the expense of America. The tort reformers are not subtle in their claims. Unfortunately, their claims are completely false directed toward the protection of insurance industry profits.

This truth is born out in court every day, in every state, in every personal injury case. The mention of insurance coverage in personal injury actions is strictly prohibited. It is argued that jurors would unfairly factor the coverage into their decision-making. What escapes reason and discussion in the Tort Reform error is that jurors routinely and erroneously factor into their decisions the possibility that a large verdict would unduly harm the defendant whether it be a doctor, small business, large business, or individual.

In fact, this lie underlies the entire Tort Reform campaign which relies on the fact that the jury and the public are never told the truth behind each and every personal injury case. That truth is that personal injury cases are rarely filed at all unless there is insurance coverage. Insurance is called upon to reimburse plaintiffs for their injuries. In most cases, there is no point in filing against an uninsured defendant. Most uninsured individuals or businesses have no assets either. One of the first things anyone does upon the acquisition of wealth or assets is to obtain insurance to protect them. Where the defendant is uninsured, which is quite typical in auto accidents in New Mexico, the typical best case outcome is a large but uncollectable verdict. Few lawyers would put their clients or themselves through such a futile endeavor.

The truth is that the insurance industry, which records obscene earnings and profits each year, relies on the jury's lack of knowledge to protect not the doctor, the small business or the public but to protect its own profits. In the end, due to the huge success the lies of Tort Reform have in had on swaying juries against injured plaintiffs and effectively passing on the insurance industry's liability, it is both the public and the plaintiff who are harmed.

The Tort Reform movement in its successful campaigns for the protection of the insurance industry effectively shifts the costs of the insurance industry to the injured plaintiff and the public.

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After all, who pays when a plaintiff is horribly injured, forced to endure a lifetime of medical treatment and often unable to work? Medicare, Medicaid and Social Security then pick up the tab for what was contractually the responsibility of an insurance company. These costs are of course passed on to the public through taxes and debt.

Keep this in mind the next time you hear that personal injury suits harm the public. It is not the personal injury suit, the attorneys, or the plaintiff that hurt the public, it is the passing on of insurance coverage responsibilities from the ever successful and profitable insurance industry to the public health and welfare agencies that causes the true harm to the public.

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