

Debunking the Myths

Myth: The number of lawsuits is skyrocketing

Not true. According to the Justice Department under President George W. Bush, the number of federal tort (personal injury) cases resolved in U.S. District Courts fell by 79 percent between 1985 and 2003. In 1985, 3,600 tort trials were decided by a judge or jury in U.S. District Courts. By 2003, that number had dropped to less than 800.¹

Additionally, the most recent statistics from the Administration's Bureau of Justice Statistics show the number of tort trials at the state level has decreased. These statistics were compiled as part of the Bureau's survey of state civil justice systems in the nation's largest 75 counties. Among these counties, the number of tort trials decreased 31.8 percent between 1992 and 2001.²

Myth: Health care costs are rising and doctors are unable to practice due to litigation.

Health care costs are rising; however, medical malpractice litigation has nothing to do with it. According to the Congressional Budget Office, medical malpractice amounted to less than 2 percent of overall health care spending.³ The Government Accountability Office also found that malpractice cases have not widely affected access to health care.⁴

According to the American Medical Association, the overall number of physicians is up more than 40 percent since 1990⁵, while over the same time, the U.S. population increased by only 18 percent.⁶ The number of emergency physicians, neurosurgeons, and OB/GYNs has also increased significantly over the same time period.

Myth: Legal reform is needed because lawsuits hurt small businesses.

Wrong. Multiple surveys have shown that lawsuits are not a concern for small business owners. A 2008 survey from National Federation of Independent Business had similar results, with "costs and frequency of lawsuits / threatened suits" ranking 65th (out of 75) on a list of small business owners' worries.⁷

In reality, only big corporations and their front groups want to destroy the legal system so they can't be held accountable for negligence and misconduct. Drug, oil, and insurance companies

have tried to hide behind small business owners to accomplish this; however, these surveys reveal their true intentions.

Myth: Lawsuits are out of control. Someone even sued because they spilled hot coffee on their lap!

Those looking to destroy the civil justice have continually mocked Stella Liebeck and the McDonald's coffee case. Unfortunately, the actual facts of this case make it no laughing matter.

Ms. Liebeck's injuries include third degree burns—the most severe—to her groin, inner thighs, and buttocks. She was hospitalized for eight days, during which time she underwent skin grafting and debridement treatments (the surgical removal of tissue).

Ms. Liebeck sought to settle her claim with McDonald's for \$20,000, but they refused. McDonald's eventually produced documents showing more than 700 claims by people burned by its coffee between 1982 and 1993, some involving third degree burns similar to Ms. Liebeck. This history documented McDonald's knowledge about the extent and nature of this hazard. McDonald's own quality assurance manager testified that a burn hazard exists with any food served above 140 degrees; their coffee was kept warm at 185 degrees.

A jury awarded Ms. Liebeck \$200,000 in compensatory damages, but reduced it to \$160,000 because they found her 20 percent at fault for the spill. The jury also awarded her \$2.7 million in punitive damages, equal to two days of McDonald's coffee sales. This was eventually reduced to \$480,000, even though the judge called McDonald's conduct reckless, callous, and willful. Jurors expressed similar sentiments in interviews after the trial. Ms. Liebeck and McDonald's eventually entered a post-verdict settlement.

Myth: My insurance rates are skyrocketing because of lawsuits.

Your insurance premiums may be going up, but it has nothing to do with lawsuits. Look no further than the insurance industry's annual profit reporting. In 2007, insurance companies reported a near-record profit of \$61.9 billion. In comparison, the insurance industry's 2004 profit was \$38.7 billion, which broke all previous records. Their profits continue to rise, and unfortunately, your premiums are following suit.

The insurance industry has also made the argument that awards and damages should be limited; however, have later admitted that caps will not lower premiums. For example, American Insurance Association spokesman Dennis Kelly told the Chicago Tribune in 2005 that, "We have not promised price reductions with tort reform."

Sources:

1. "Federal Tort Trials and Verdicts, 2002-03", Bureau of Justice Statistics, 8/17/05
2. "Civil Trial Cases and Verdicts in Large Counties, 2001", Bureau of Justice Statistics, 4/04
3. "Congressional Budget Office, "Limiting Tort Liability for Medical Malpractice," 1/08/04
4. "Medical Malpractice: