

**SPECIAL  
EDITION**

# MONSEES MILLER MAYER PRESLEY & AMICK

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## LOOK INSIDE

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## Your rights under attack

Your wife is in childbirth. The tired and overworked attending obstetrician and hospital staff fail to closely watch a fetal heart-tone monitor. They wait an additional 90 minutes before ordering a cesarean section. Their delay cuts off oxygen to your baby's body, and, tragically, the infant is born with disabling cerebral palsy.

Your baby will require lifelong medical care averaging \$100,000 annually. Expenses your family might incur include doctor visits, prescription drugs, and inpatient hospital stays...hospital outpatient and emergency department visits...residential care and family out-of-pocket expenses...physical, speech, and occupational therapy...home and auto modifications...special education...and lifetime lost wages.



## If this tragedy happened to you...

Would you sign the following document limiting your legal rights if you are injured through no fault of your own?

### Limitation of Damages

I, the undersigned, agree to the following terms regarding medical care provided to myself, my family, relatives, and friends:

- 1) Compensation limits are a good idea, no matter how negligent a hospital or doctor may be.
- 2) I will limit my medical malpractice compensation for the actual injury to \$250,000, no matter what the circumstances or extent of the injury.
- 3) Even if I, my spouse, child, parents, relatives, or others are crippled, disfigured, blinded, or live in chronic and severe pain or humiliation for the rest of our lives, the most anyone should ever receive for the actual injury is \$250,000.
- 4) If others are party to the medical negligence, no one ever has to tell me about them.
- 5) I grant the hospital and physician the right to sue me without restriction or limitation in the event I ever harm them in any way, such as in an auto accident.
- 6) I agree to pay back to my own insurance or disability company 100 percent of the medical bill reimbursement I receive from the hospital or physician in any recovery from my own health-care providers for my injury.
- 7) I accept that the hospital and doctor have superseding rights and can place restrictions on my personal rights and ability to get on with my life.
- 8) I agree in advance that no matter how a hospital or doctor may harm me, I will keep everything about it secret. That goes, too, even if they may have harmed others in the past and may injure more in the future.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## Tort "reform"

This contract is what "tort reform" really means. When you hear the words "tort reform," or "legal reform," replace them—every time—with "My family and I will give up our legal right to hold wrongdoers accountable in court for harm done to us."

*There is no litigation crisis.*

# America has no real litigation crisis

There is no “tort reform” crisis. That’s because America has a healthy and thriving civil justice system that protects victims from the greedy and powerful. It is filled with checks and balances to protect everyone’s rights.

## America’s civil justice system is working for you

America’s civil justice system has protected citizens for more than 200 years. No other nation on earth gives citizens the right to hold wealthy and powerful interests accountable in court for the harm they do.

However, powerful interests—including the manufacturing, asbestos, pharmaceutical, tobacco, and insurance industries—have been making a case for 30 years, and spending literally billions of dollars to do so, that our system is broken and needs reform.

Nothing could be further from the truth.

## A phony crisis

In reality, these special interests want only to insulate themselves from responsibility and accountability for the injuries they cause. They have tremendous power and spend billions to deny the average person access to courts and juries to receive fair compensation for harm done to them.

## Compensation limits

Their “solution” to the phony “crisis” is to limit how much compensation a victim can obtain from medical negligence, dangerous products, auto accidents, civil rights infractions, consumer protection law violations, employment discrimination, professional errors, and unsafe premises and places of work.

**Anesthesia error left surgery patient alert**  
*CNN*  
May 18, 2004

**Doctors cite instances of medical errors**  
*USA Today*  
December 12, 2002

**Lack of reporting thwarts efforts to halt deadly infections**  
*Washington Post*  
February 25, 2003

# Profits versus people

## Why corporations want to limit damage awards

Special interests want to take away the legal rights of your family so that corporations can reap larger profits. They have waged a long and successful “tort reform,” or “legal reform,” image campaign to convince

Americans that limits, or “caps,” on their own rights are a good thing.

But why do they want to fix a system that is actually healthy and, in

fact, protecting those who have been harmed or injured?

## Here are the facts:

- Ninety-six percent of personal injury cases are settled out of court.
- Only four percent of injury cases are decided by jury verdicts.
- Within that four percent settled by juries, jurors award verdicts to defendants in 70 percent of cases.
- So juries award only one percent of all injury cases to plaintiffs.

Does that merit reforming? Hardly.

## Why they attack

This false and concerted attack on our civil justice system—and families, like yours, needing protection—keeps profits strong. These interests have spent billions promoting public relations lobbying and propaganda campaigns calling the one percent of lawsuits “frivolous.”

Corporate special interests also have painted trial lawyers—the real protectors of those who cannot defend themselves against powerful

and moneyed interests—as selfish and greedy.

**Stressed surgeons leave tools in patients**  
*Associated Press*  
January 16, 2003

# What if you were injured on the job?

## How would the insurance industry treat you?

Here’s what a worker severely injured on the job might expect from powerful and moneyed insurance interests.

Let’s say this worker is 35 years old and lost a hand while working at a metal-finishing machine from which a safety guard was removed in an effort to increase production.

She can never return to work. She also has high medical and rehab recovery bills and will have no income for the rest of her 30-year work life.

Insurance companies, with lots of experience with workplace injuries, know that medical, rehabilitation, living, and pain and suffering costs may total nearly \$3 million for this woman’s kind of injury. They may offer this injured worker \$1 million to settle the case out of court. This will compensate for medical bills, but will not cover other costs. The insurer also may require the worker to sign a secret settlement agreement.

The insurance company wants only to minimize its payout.



# Here is how insurance companies...

**...want to take away your family's rights...want to keep making windfall profits...want taxpayers to subsidize their bottom lines**

Insurance companies are doing well. They reap incredible profits.

- In 2004, property and casualty insurers increased profits twelvefold from 2003—from \$3 billion to \$36 billion.
  - CEOs took huge 2003 salaries:
    - Eli Broad, SunAmerica (of American International Group), \$48,174,739
    - Sanford I. Weill, Citigroup, \$26,694,959
    - Jacques E. Dubois, Jr., Swiss Re, \$19,739,137
- The General Accounting Office reported that insurers

experienced sharply reduced gains due to poor investing in the late 1990s. As a result, profits plummeted.

To recover from their errors, insurers increased premiums in 2001 to make up operating-cost losses. They also charged artificially low, money-losing premium rates to compete with each other.

To avoid blame for their misjudgments, the industry endorsed the myth that the small number of personal injury lawsuits were responsible for rising medical malpractice premiums, even though insurers increased premiums for all other business and consumer lines at the same time.

The industry stepped up its public relations efforts by lobbying against America's injured, who they said would have to settle for less and less. Executives blamed a small number of injury cases—and not the negligent hospitals and physicians who caused them—for ever-increasing doctors' medical malpractice insurance premiums.

**Property and casualty insurance industry profits rise 1000% in 2003. Insurers don't pass savings on to policyholders**  
*The Foundation for Taxpayer and Consumer Rights*  
April 15, 2004



## What the health-care and insurance industries want to hide

### **Too many patients are victims of medical errors**

Injured patients are not the problem. They are innocent victims of hospital and physician negligence.

### **Patient safety problems are epidemic**

"Patient Safety in American Hospitals," a 2004 HealthGrades study, estimated that at least 195,000 patients die annually in American hospitals due to *preventable* medical errors. To put 195,000 patients into perspective, it is equivalent to three fully occupied jumbo jets crashing daily. Only cancer and heart disease cause more patient deaths than preventable medical errors.

In addition, another million patients are injured by preventable, negligent errors annually.

The medical industry has found ways to get around policing its own ranks and reporting adverse incidents. How? Medical peer reviews protect dangerous doctors with slaps on wrists. The industry also prevents accurate data from appearing in The National Practitioner Data Bank, where information on liability settlements, judgments, and other negative data are recorded and made available to the public.

**Small percentage of doctors responsible for surge in malpractice suits, rates**  
*The Boston Globe*  
June 15, 1986

**Preventable clots killing thousands in U.S.**  
*Reuters News Service*  
February 27, 2003



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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## Here is how every one of us can protect our rights

Politicians at the White House, Congress, and state legislatures are under intense pressure from an army of highly paid special-interest lobbyists. Unless they are checked, public officials will serve their campaign-donor corporate special interests by taking away the rights of hard-working Americans.

### How you can learn more...

- Learn more about your rights by surfing to:
  - The Association of Trial Lawyers of America at [atla.org](http://atla.org) and clicking on "Protecting Your Rights."
  - People Over Profits at [peopleoverprofits.org](http://peopleoverprofits.org).
  - The Committee for Justice for All at [saynotocaps.org](http://saynotocaps.org).
- Contact your legislators and tell them how you feel about protecting your rights.
- If you need more information, call our law offices at **800-444-7552 (Kansas City)** or **800-333-7552 (Springfield)**.



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