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WINTER 2004/05

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- Explosions, Electrocution
- Insurance Claims
- ...and many others.

The truth about the civil justice system in America



**by Todd A. Smith, President
Association of Trial Lawyers of America**

Trial lawyers represent Americans who have been physically or financially injured by others. Lawyers help those who are harmed to get a fair shake against even the wealthiest and most powerful corporations.

Trial lawyers, their clients, our civil justice system, and the right to trial by jury promote public safety and public good by forcing corporations to make safer products, improve workplace safety, clean the environment, and improve the quality of health care.

“Tort reform,” taking away the legal right of American families to a trial by jury, has never improved health care or prevented medical malpractice. It has never made American products or working conditions safer or held corrupt corporations accountable.

In fact, it is those who create the harm and its concomitant costs who cause the injury, not those who are unfairly injured or the lawyers who represent them.

Tort reform advocates say many lawsuits are “frivolous.” In reality, most lawsuits clogging the courts are businesses suing other businesses. The special interests who advocate limiting the legal rights of American families have never proposed limiting the legal rights of American corporations to file lawsuits.

Trial by a jury of our peers is a Bill of Rights guarantee. Today’s attack on juries is a siege on the Constitution and an attack on jurors—you, your friends, neighbors, and coworkers.

Those who advocate radical changes to limit the legal rights of American families say that you, the jury member, are qualified to judge a capital murder case, but not a corporation that knowingly manufactures a faulty product that maims or kills. Tort reformers say you are not qualified to hear a case against a doctor whose malpractice caused life-altering injury or death. You are not qualified to sit in judgment on Enron executives or on asbestos manufacturers who deceived their workers and customers for decades about the deadly nature of their product.

For more about threats to civil justice, please surf to the Center for Justice and Democracy Web site at www.centerjd.org and ATLA’s Consumer and Media Resources Web site at www.atla.org/ConsumerMediaResources/ConsumerMediaResources.aspx.

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coworkers.*

Good people who happen to be good lawyers.



Unaccompanied minors

Although most parents want to accompany their children traveling by air to vacations, summer camps, or boarding schools, situations may occur in which minors must fly alone.

Most airlines have established programs to help children travel by themselves efficiently and safely.

Parents also can take several steps:

✓ Book reservations early on airlines that agree to greet, escort, and monitor

children traveling alone. There may be additional fees.

✓ Inform your child on how to be safe at airports and on airlines. Tell them not to talk to strangers, to buckle their seat belts, and generally to be aware of their surroundings.

✓ For first flights, talk to your child about airports, airplanes, and what will happen on the trip. Instruct your child about how to use an airplane's bathroom, how to call an attendant, and what to do if lost or in an emergency.

✓ Prepare a carry-on bag for your child. Include a cell phone, phone contacts, medications, medical history, and other necessary documentation. Pack a familiar drink and snack as well as books or favorite electronic games.

✓ During check-in, give attendants instructions and other information, particularly the name and photo of the person who will meet the child upon debarkation. Request that an attendant walk the child to the aircraft.

✓ Remain at the airport until the plane is airborne.

✓ Confirm that your child arrived and was greeted at the destination.

Travel problems

When an unaccompanied minor was allegedly molested by a fellow passenger during a flight, her mother sued for negligent supervision. Although the airline argued it had no duty to protect the child, the court permitted the parent to sue since the airline had assumed additional legal responsibility in creating and charging for a separate class of unaccompanied minor passengers.

Trial by jury

Americans demonstrate their patriotism through military service, voting on Election Day, and serving on juries.

Our firm encourages all citizens to perform jury duty. Throughout our nation, courts are increasingly trying to make jury duty more effective and pleasant.

Many courts provide clearer jury instructions and permit jurors to take notes. Some states have raised the *per diem* pay. Others have set up a "one day, one trial" system that respects jurors' time.

Some Florida courts provide complimentary parking and child-care services.

A California city replaced the coin-operated coffee machines in juror waiting rooms with a centrally located gourmet coffee shop. Another California city operates a mystery-book library for jurors.

In New York's Nassau County, jurors can go online with complimentary wireless access for laptops and even sign up for mammograms or prostate screenings. There's also a blood-donation option.

Litigation explosion?

What litigation explosion?

Special-interest groups have been falsely decrying the existence of a "litigation explosion" for decades. They oppose the way citizen lawsuits and our civil justice system can serve as fair and fundamental checks on the power of businesses and governments.

To minimize accountability for wrongdoers' harmful conduct, special-interest groups and their highly paid lobbyists promote efforts to limit the legal rights of American families, claiming that too many lawsuits have led to excessive costs and delays. They just don't trust the American people.

But there is no litigation explosion.

- Since 1992, lawsuit filings have declined by nine percent.
- Automobile lawsuit filings, which make up the majority of all tort (or personal injury) claims, have fallen 14 percent since the early 1990s.
- Medical malpractice filings per 100,000 persons have dropped one percent.
- In 22 of the 30 states that the National Center for State Courts examined, population-adjusted lawsuit filings declined from 1992 to 2001. The average change in tort filings across all 30 states was a 15 percent decrease.
- The Department of Justice's Bureau of Justice Statistics reported that the number of civil trials decreased by 47 percent between 1992 and 2001.
- The median inflation-adjusted award in all lawsuits dropped 56 percent between 1992 and 2001 to \$28,000.



Con artists and the elderly

Con artists view some seniors as easy prey in their schemes to steal money. American Association of Retired Persons surveys show that more than half of telemarketing-fraud victims are age 50 or older. Other sources claim that more than 14,000 illegitimate telemarketers steal at least \$40 billion from unwary older—and younger—consumers annually.

The most common scams include calls about phony prize notifications, bad-credit clearance offers, fraudulent home inspections and repairs, expensive buyers clubs, deceptive investments, unnecessary and unwanted phone service subscription “slamming,” and others. Some seniors fall for scams claiming the ability to recapture money from the same scammers who took their money the first time.

To be safe from fraud, law-enforcement authorities often offer these guidelines:

- Never pay up-front fees for prizes or offers.



- Refuse to make payments by wire or through private couriers.
- Always ask for detailed, printed information on any offer.
- Do not release Social Security or credit-card numbers to unknown persons.
- Donate only to known charities.
- If a deal sounds too good to be true, it is.



Life insurance scam

An elderly couple’s insurance agent allegedly promoted a life insurance policy that would provide a \$5 million death payment and other benefits. After the couple pledged \$700,000 in personal assets to collateralize the premium loan, the premium lender demanded an unexpected \$35,000 first-year premium payment, threatening foreclosure on the collateral. When the couple sued for negligence, fraud, securities fraud, and statutory elder abuse, the agent and lender settled before the case went to court.

Auto accident FRAUD

Auto accident fraud—accidents perpetrated by crime rings—drives everyone’s car insurance premiums up. Insurance-industry experts estimate that criminals who plan auto accidents, claim false injuries, and even set up fake health clinics steal hundreds of millions of dollars in insurance payments every year.

Deliberate accidents are so well planned, they even have names:

Swoop and squat—A driver is cut off by a braking car and hits it in the rear. Passengers pretend to be injured.

Drive down—A driver waves another to enter the traffic flow, then rams and blames him or her.

Sideswipe—One car’s driver intentionally strikes another car in two-lane turns at intersections.

Shady helpers—An “eyewitness,” an accomplice, suggests that the victim patronize a complicit body shop, physician, or lawyer following an accident.

Protect yourself

Law-enforcement and insurance professionals encourage drivers to be alert to planned accidents and to follow these steps:

1. Distance your vehicle from others.
2. Call the police right away and get the officers’ names and badge numbers. Obtain a police report.
3. Write down all the details of any accident—car make and year, tag number, registration, driver’s license, phone number, accident description...everything.
4. Write down the names, addresses, and phone numbers of all passengers. Someone not there may claim to have been present. Note if anyone seems seriously injured.
5. Seek medical help if you are injured.
6. Talk to legal counsel.



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Government liability

State and local government officials and employees, and the departments, agencies, and authorities that employ them, may be held responsible for injuries their decisions or negligence causes.

Harm can result from many situations, including poor performance of contracts, false arrest, employment-law violations, racial discrimination, dangerous public-property conditions, and many others.

Poisoning from lead is a hazard to young children. Even at very low levels, flaking lead paint or dust lead can reduce hearing, induce hyperactivity, and cause learning disabilities and behavior problems.

When health inspections fail

A mother and her two children lived in an apartment that city health inspectors found contained excessively high levels of lead from old paint. Blood testing indicated that one child had high blood-lead levels.

Inspectors advised the mother that the family could safely remain in the apartment during lead-abatement procedures. Following cleanup, inspectors certified that the apartment was lead-free. Soon after, however, both children's blood-lead levels spiked, resulting in diminished IQ, loss of motor coordination, memory impairment, and other serious cognitive difficulties. Their mother sued the city, alleging negligence in advising that the apartment was safe for the children to live in during cleanup, and for certifying that the lead hazard had abated. The parties settled prior to the lawsuit going to trial.



Propane safety

Propane is a safe and economical fuel for heating, making hot water, and cooking. The National Propane Gas Association estimates that more than 60 million Americans use propane daily in their homes, on farms, for vehicles, and even for recreation.

Propane suppliers urge consumers to use propane safely.

- If you smell its strong garlicky odor, leave without touching electrical equipment of any kind.
- Everyone should know where and how to turn gas off.
- Never tamper with propane equipment. Call qualified technicians to do installation and repairs.
- Store combustibles away from gas sources.

Negligent installation

A home owner was the rare victim of a propane explosion. While replacing a kitchen floor, a man moved a stove slightly and then died in an explosion. His family sued the gas supplier and equipment installer for negligence in installation and inspection of the stove. The jury's award found the installer 100 percent at fault.