

# Doctors Fleeing Florida's Sue-Happy Lawyers

*By Robert "Jake" Bebbler*

The 2006 legislative session gives Florida lawmakers yet another chance to restore some sanity to a civil justice system that's causing doctors to leave the state, damaging the business climate, and imposing a steep "tort tax" on every Floridian.

Last year, despite compelling evidence of the need for tort reform, lawmakers yielded under intense pressure from trial lawyers and their surrogate "consumer groups." As a result, Florida once again missed a chance to adopt litigation reform. This year promises to be just as difficult, but hope remains that common-sense will prevail.

Voters won't have to wait long to see how their legislators vote. Major tort reform legislation has been introduced. In the House, it has already passed through the committee process on its way to the floor. HB 145, sponsored by Rep. Don Brown, R-DeFuniak Springs, would eliminate the practice of "joint and several liability," which is fancy legal talk for forcing those with "deep pockets" to pay for claims -- even if they had little or no fault in the matter. In the Senate, SB 2006 by Sen. Daniel Webster, R-Winter Garden, awaits committee action.

The profound unfairness of this legal doctrine flies in the face of common-sense. A defendant who is only 10 percent at fault can be liable for over \$200,000 *more* than his fair share of damages in cases where the plaintiff is partially at fault. In some cases, defendants can be liable for \$2 million more than their fair share, even when they are not fully at fault.

The practice of joint and several liability only encourages trial attorneys to seek out more lawsuits and add as many defendants as they can. Their hope is that they find a "deep pocket" -- someone with good insurance or who is wealthy (preferably both) whom they can drag into the legal system to obtain a large award.

Lest you think that the bulk of such awards actually reach the injured party, you might be interested to know that less than 50 cents on the dollar is returned to the plaintiffs, according to a recent study by Towers Perrin Tillinghast in their report, "U.S. Tort Costs: 2004 Update." The rest is taken up in legal expenses and contingency fees.

Our current civil litigation system is broken. Along with being patently unfair, as the practice of "joint and several liability" shows, it is also too costly. According to the Florida Justice Reform Institute, the U.S. Chamber of Commerce, and the American Tort Reform Association, our legal system cost \$246 *billion* in 2003 alone, equaling \$845 for every man, woman and child. Small businesses pay \$88 billion each year to cover liability expenses. That is money that cannot be used to invest in better jobs and better wages or to pay for health care for their employees.

Florida has the dubious distinction of being recognized as “Judicial Hellhole” by the American Tort Reform Association for creating a climate that encourages frivolous lawsuits and trial lawyer profiteering.

Physicians continue to flee Florida for states where the liability climate does not threaten their ability to practice medicine. In 1999, there were 50,003 physicians in Florida. By 2004, that number dropped to 32,683, according to a study by the Florida Chamber of Commerce, using data from the Florida Department of Health.

The compelling evidence continues to mount that we face a litigation crisis in Florida. It is time for the Florida Legislature to stand up against the powerful Trial Lawyer lobby and their surrogate “consumer” groups and do what’s right. It is time to restore fairness to our civil court system.

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