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Topic for the Month:

Tort Reform. What is It? Why Should I Care?

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“Tort Reform,” “Litigation Explosion,” “Frivolous Lawsuits”: These buzz words are often used by people or groups who are attempting to erode one of the fundamental rights, which all Americans have. The right to a jury trial. While most Americans will never be involved in a jury trial, the right to request and proceed to a jury trial, is a fundamental right. Be wary of legislation which put limits on the rights of consumers as well as the ability of a jury to render a fair verdict.

Is the Civil Justice System in Need of Repair?

You be the judge. There are those who claim that, our civil justice system is a time-bomb waiting to explode. The system is spewing forth a “litigation crisis,” which buries our court system in a mountain of frivolous lawsuits which are paralyzing our economy. The answer, according to critics, is to proceed with tort “reform.” Many of the proposed “reforms” reduce levels of accountability by making it harder to sue businesses, placing arbitrary limits on recovery and moving disputes from courtrooms to “alternative” forums.

Much of the debate on the weaknesses of the civil justice system relies on dubious anecdotes, questionable research, concocted statistics, factual and legal misstatements and a willful disregard of contradictory evidence. In other words, the “rest of the story” is being ignored. If the civil justice system is to survive as a vital part of society, it is imperative that the public is educated about the workings of the courts, exposing misconceptions and turning the tide against the “litigation explosion” myth.

What Do the Statistics Show? Tort filings are a small part of the workload of the courts. Those claiming there is a “litigation explosion” have generally referred to an increase in tort cases (cases involving personal injury or property damage), rather than the full range of civil cases. Recent statistics from the Wisconsin Director of State Courts show: Torts, those cases that encompass product liability, personal injury and medical malpractice, made up 8,581 cases out of a total of 256,596 civil case filings, including uncontested small claims, in 2001. That’s just 3 percent of civil case filings.

Product Liability: Our product liability system is not broken. In 2001, only 85 product liability cases were filed in Wisconsin, constituting less than 1% of all cases filed.

KNOW YOUR RIGHTS: Our firm recognizes the importance of educating and advising consumers. We take pride in providing a full range of legal services. We are a **full-service** law firm. Feel free to call any of our attorney to discuss your legal rights.

The McDonald’s Coffee Spill Case: Politicians and newspaper columnists often cite the McDonald’s “coffee spill” verdict as a prime example of a failed system. With limited facts, it is easy to see why this case caused such a stir. At the beginning of trial, jury foreman Jerry Goens said he “wasn’t convinced as to why I needed to be there to settle a coffee spill.” This statement was made before all of the evidence had been presented.



cup

While seated in her car, Mrs. Liebeck put the cup in her lap, removed the lid and spilled coffee into her groin area. The spill caused **third-degree** burns of the groin, inner thigh and buttocks. McDonald’s brewed its coffee at 195 to 205 degrees and served it at 180 degrees. Most other restaurants served coffee at 160 degrees. It takes less than 3 seconds to produce a third-degree burn at 190 degrees.

• Mrs. Liebeck, an 81 year old woman, purchased a of coffee from McDonalds. She testified that all she wanted was compensation for her pain and payment of her medical bills. The burns sustained were severe, leading to 7 days in the hospital, skin grafting and permanent scarring.

• The trial lasted 7 days. McDonald’s executives admitted that while they knew their coffee caused serious burns, they did nothing about it. McDonald’s also admitted that it’s coffee was “not fit for consumption” when sold because it causes severe scalds if spilled or drunk. During the previous 10 years, McDonald’s had received at least 700 reports of coffee burns, ranging from mild to severe. McDonald’s claimed that Mrs. Liebeck could have avoided being burned by removing her clothes immediately. The jury awarded \$200,000 in compensatory damages. This figure was reduced to \$160,000, due to 20% contributory negligence being assessed against Mrs. Liebeck.

• **Punitive Damages:** The jury concluded that punitive damages were appropriate, as McDonald’s had engaged in willful, reckless and malicious conduct. McDonald’s sold a billion cups of coffee per year, producing coffee sale revenue of \$ 1.35 million per day. As a penalty for the reckless conduct of McDonald’s, the jury decided to assess \$ 2.7 million in punitive damages. This was the equivalent of 2 days of coffee sales. The judge agreed that punitive damages were appropriate. The judge then exercised his discretion and reduced the punitive damage award to \$480,000.

- The burns sustained were severe, leading to 7 days in the hospital, skin grafting and permanent disfigurement.

