

**From:** "Young, Tracy"  
**To:** "Kavanaugh, Brett M.", "Ulyot, Theodore W."  
**Cc:** "Vestewig, Lauren J."  
**Subject:** Partial comments included - Fact Sheet for Legal Reform (still waiting on others)  
**Received(Date):** Tue, 4 Jan 2005 22:16:13 -0500  
[LEGAL REFORM.Fact Sheet.DRAFT with Changes for Staff sec as of Tues nite \(for 1-5-05\).doc](#)

Brett and Ted -

I'm getting this fact sheet into your hands in "almost" final form so that you can begin to square it with the final speech. I'd like to get it finalized as soon as I can Wed morning so that we can make it to IL with the fact sheet.

Lauren and I talked about it and I hoped to be able to give you any final edits from the remaining few offices that did not provide comments to me tonight.

I've received comments from everyone except Rove, Hennessey and Mankiw. (Bartlett had no comments for me though I got no fax from Krista) and (Spellings via Alan Gilbert just gave me comments now and I've incorporated them.)

Let me know if this works for you and as soon as I get final comments from these last offices - I'll give you a call - thx, Tracy (cell: P6/b(6))

## Legal Reform: The High Costs of Lawsuit Abuse

### Today's Presidential Action

➤..... Today, President Bush highlighted the need for common-sense medical liability reform to protect patients, to stop the sky-rocketing costs associated with frivolous lawsuits, to make health care more affordable and accessible for all Americans, and to keep necessary services in communities that need them most.

➤..... The President's plan will help reduce the rising cost of health care while improving quality and safety. President Bush's framework for addressing the medical liability crisis in America seeks to make health care more affordable and accessible for all Americans by making the medical liability system more stable and predictable, and to protect patients by reducing the disincentives for reporting medical errors and complications.

➤..... The President also stressed the need for class action lawsuit reform and asbestos litigation reform, and he urged Congress to enact proposed reforms. Class action lawsuits are an important and intrinsic part of the U.S. legal system. However, when the ability to bring a class action lawsuit is abused, it truly harms injured parties and undermines the American judicial system. The growing problem of asbestos litigation is similarly hurting workers, bankrupting businesses, and delaying relief for the truly sick claimants.

-

## **Background on Today's Presidential Action**

The costs of litigation per person in the United States are far higher than in any other major industrialized nation in the world. Lawsuit costs have risen substantially over the past several decades, and a significant part of the costs from lawsuits go to paying lawyers' fees and transaction costs – not to the injured parties. This explosion in litigation is creating a logjam in America's civil courts and threatening jobs across America. Small businesses spend, on average, about \$150,000 per year on litigation expenses. The President is urging Congress to pass legislation that reduces the burden of frivolous lawsuits on our economy. President Bush supports enactment of medical liability reform, class action lawsuit reform, and asbestos litigation reform to expedite resolutions and curb the costs of lawsuits for all Americans.

### ➤..... **Curbing Lawsuit Abuse with Needed Medical Liability Reform**

✓..... **Frivolous lawsuits and excessive jury awards are driving many health care providers out of communities and forcing doctors to practice overly defensive medicine.** This reduces access to medically necessary services and raises the costs of health care for all. The President has proposed proven reforms, such as common-sense limits on non-economic damages, to make the medical liability system more fair, predictable, and timely.

✓..... The President's framework for addressing the medical liability crisis includes:

■..... Securing the ability of injured patients to get quick, unlimited compensation for their "economic losses," including the loss of ability to provide unpaid services like care for children or parents;



- ..... Ensuring recoveries for non-economic damages do not exceed a reasonable amount (\$250,000);
- ..... Reserving punitive damages for egregious cases where they are justified;
- ..... Providing for payments of judgments over time rather than in a single lump sum, to ensure that appropriate payments are made when patients need them;
- ..... Ensuring that old cases cannot be brought to court years after an event; and
- ..... Providing that defendants pay judgments in proportion to their fault.

-

#### ➤..... **Returning Justice to the Truly Injured with Class Action Reform**

✓..... **The President supports class action reforms to limit the abuse of large, nationwide class action cases and return justice to the truly injured parties.** Class action lawsuits are an important part of the U.S. legal system. However, class action system is heavily abused, which in turn does not benefit injured parties and undermines the American judicial system. In particular, injured parties often receive awards of little or no value while lawyers receive large fees. The proposed class action reform legislation recognizes that large interstate class action lawsuits deserve Federal court access because they typically affect more citizens, involve more money, and implicate more interstate commerce issues than any other types of lawsuits. These reforms do not alter the right of a plaintiff to bring a legitimate claim, or change controlling substantive law, but they do provide additional protection and information to class members.

#### ➤..... **Aiding Asbestos Victims with a Fair System and Long-Term Solution**

✓..... **Victims of asbestos-related diseases deserve a fair system and a long-term solution.** The current system may leave little or no funds to pay current and future asbestos victims, is costly to administer (future transaction costs are estimated at between \$145 and \$210 billion), will impose large, indirect costs on the economy, and has driven exposed defendants, including small businesses, into bankruptcy. Asbestos, as the longest-running mass tort litigation in U.S. history, has led to the bankruptcies of at least [85] companies and to more than 50,000 lost jobs. Within the past few years, there have been sharp increases in the number of asbestos claims filed annually. The President has stressed the need for reform and commended Congress for aggressively

working on this problem, but more work needs to be done to pass legislation for the President to sign that provides a fair and permanent solution.



# LEGAL REFORM: THE HIGH COSTS OF LAWSUIT ABUSE

## Today's Presidential Action

- Today, President Bush highlighted the need for common-sense medical liability reform to protect patients, to stop the sky-rocketing costs associated with frivolous lawsuits, to make health care more affordable and accessible for all Americans, and to keep necessary services in communities that need them most.
- The President's plan will help reduce the rising cost of health care while improving quality and safety. President Bush's framework for addressing the medical liability crisis in America seeks to make health care more affordable and accessible for all Americans by making the medical liability system more stable and predictable, and to protect patients by reducing the disincentives for reporting medical errors and complications.
- The President also stressed the need for class action lawsuit reform and asbestos litigation reform, and he urged Congress to enact proposed reforms. Class action lawsuits are an important and intrinsic part of the U.S. legal system. However, when the ability to bring a class action lawsuit is abused, it truly harms injured parties and undermines the American judicial system. The growing problem of asbestos litigation is similarly hurting workers, bankrupting businesses, and delaying relief for the truly sick claimants.

## Background on Today's Presidential Action

The costs of litigation per person in the United States are far higher than in any other major industrialized nation in the world. Lawsuit costs have risen substantially over the past several decades, and a significant part of the costs from lawsuits go to paying lawyers' fees and transaction costs – not to the injured parties. This explosion in litigation is creating a logjam in America's civil courts and threatening jobs across America. Small businesses spends, on average, about \$150,000 per year on litigation expenses. The President is urging Congress to pass legislation that reduces the burden of frivolous lawsuits on our economy. President Bush supports enactment of medical liability reform, class action lawsuit reform, and asbestos litigation reform to expedite resolutions and curb the costs of lawsuits for all Americans.

## ➤ Curbing Lawsuit Abuse with Needed Medical Liability Reform

- ✓ **Frivolous lawsuits and excessive jury awards are driving many health care providers out of communities and forcing doctors to practice overly defensive medicine.** This reduces access to medically necessary services and raises the costs of health care for all. The President has proposed proven reforms, such as common-sense limits on non-economic damages, to make the medical liability system more fair, predictable, and timely.
- ✓ The President's framework for addressing the medical liability crisis includes:
  - Securing the ability of injured patients to get quick, unlimited compensation for their "economic losses," including the loss of ability to provide unpaid services like care for children or parents;
  - Ensuring recoveries for non-economic damages do not exceed a reasonable amount (\$250,000);
  - Reserving punitive damages for egregious cases where they are justified;
  - Providing for payments of judgments over time rather than in a single lump sum, to ensure that appropriate payments are made when patients need them;
  - Ensuring that old cases cannot be brought to court years after an event; and
  - Providing that defendants pay judgments in proportion to their fault.



➤ **Returning Justice to the Truly Injured with Class Action Reform**

- ✓ **The President supports class action reforms to limit the abuse of large, nationwide class action cases and return justice to the truly injured parties.** Class action lawsuits are an important part of the U.S. legal system. However, class action system is heavily abused, which in turn does not benefit injured parties and undermines the American judicial system. In particular, injured parties often receive awards of little or no value while lawyers receive large fees. The proposed class action reform legislation recognizes that large interstate class action lawsuits deserve Federal court access because they typically affect more citizens, involve more money, and implicate more interstate commerce issues than any other types of lawsuits. These reforms do not alter the right of a plaintiff to bring a legitimate claim, or change controlling substantive law, but they do provide additional protection and information to class members.

➤ **Aiding Asbestos Victims with a Fair System and Long-Term Solution**

- ✓ **Victims of asbestos-related diseases deserve a fair system and a long-term solution.** The current system may leave little or no funds to pay current and future asbestos victims, is costly to administer (future transaction costs are estimated at between \$145 and \$210 billion), will impose large, indirect costs on the economy, and has driven exposed defendants, including small businesses, into bankruptcy. Asbestos, as the longest-running mass tort litigation in U.S. history, has led to the bankruptcies of at least [85] companies and to more than 50,000 lost jobs. Within the past few years, there have been sharp increases in the number of asbestos claims filed annually. The President has stressed the need for reform and commended Congress for aggressively working on this problem, but more work needs to be done to pass legislation for the President to sign that provides a fair and permanent solution.