

We're paying a dear price for lawsuit abuse

By Rick Maier

The oldest manufacturer of ladders in the U.S. went out of business recently. While competition limited how much they could raise their prices, the cost of liability insurance skyrocketed from 6% to 29% of sales. Despite the fact that the Tilley Ladders Company never lost a product liability claim in court, a lot of fine people in a small town lost their jobs, and consumers now have fewer choices of quality ladder products.

While retail, distribution and service businesses are expanding, American manufacturers are closing, contracting or bracing for trouble in the future. Here in Middle Georgia we will soon lose a major economic force in Brown & Williamson, a victim of consolidation caused by unrelenting government regulation, taxation and litigation.

Our culture has come to accept a general lack of individual responsibility, where cases with true negligence and injury are getting stamped by well-represented claimants who find someone else to blame for what used to be called an accident. This destructive redistribution of wealth is damaging our pocketbooks and restricting our liberties more than political leaders or the media understand or acknowledge.

Lawsuits affect all of society, not just the plaintiffs who receive often outrageous awards or the defendants who pay the claims and legal expenses. Insurers spread the costs for liability claims to entire pools of companies and individuals, including those who don't have claims or engage in risky activities. In addition to rising premiums, companies in targeted industries incur massive defensive costs to prevent the chance of claims.

Industries such as pharmaceutical producers pass on the rising costs through higher prices, or sell their prescription drugs through other countries where they are less likely to get sued. Manufacturers in more competitive markets are forced to cut payrolls or move jobs overseas.

And if you think pharmaceutical and insurance companies are making excess profits, I hope for your sake that you didn't own the stocks of these under-performing industries in your retirement account in 2003.

Why do we tolerate this lawsuit-happy culture? Most people I talk with, including lawyers, are disgusted by all the abuses (check out www.legalreformnow.com for many unsettling details). Liberals argue that the excesses are necessary to protect the occasional bona fide case – the same twisted logic that allows criminals to go free over legal technicalities.

One way to put things back in balance is for judges to once again consider the broader social consequences of claims. But as one judge said: "Who am I to judge?"

Juries must understand that corporations and insurance companies do not absorb these expenses, they pass them on to us all. The impact is often indirect and delayed, as in the case of B&W. And the consequences go far beyond the economic impact – did the courts really intend to keep us from putting our arm around a grieving coworker, or to cut down all the trees?

The media, politicians and general public should begin to shine a light on frivolous claimants and their crafty lawyers. Congress and the states must step up and reform the tort system – provide safe harbors for certain needed but risky activities, put caps on punitive damages, update old laws, triage matters to speed up significant cases and not let silly matters jam the system, replace judges that have decisions overturned on a regular basis, and limit attorney fees in class action cases (to under \$1,000 per hour).

We may not miss the Tilley Company, but I'll bet the ladders made overseas will not be as safe or durable. And good luck suing some manufacturer in China if you ever have a legitimate claim. Can you say “one call, that's all” in Mandarin?

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