

TALLAHASSEE DEMOCRAT

Lawsuit industry is taxing all Floridians

By William Large

MY VIEW

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Thanks to Florida's trial attorneys, there's no running allowed on playgrounds.

Swings, merry-go-rounds, teeter-totters and sandboxes are also rapidly becoming extinct. You can blame the trial attorneys for that, too.

Because they are constantly targeted by personal injury attorneys in search of easy paydays, school districts are now forced to put warning labels on childhood fun. According to a recent newspaper account, one South Florida school district has paid out more than \$560,000 to settle 189 claims for playground accidents since 1999.

That school district isn't a corporate wrongdoer or a criminal enterprise. Yet money that should be spent to pay teachers and educate children is instead being spent on attorney fees and injury claims that defy common sense. That money feeds Florida's booming lawsuit industry - Trial Lawyer Inc.

Sadly, schools aren't the only victims of Trial Lawyer Inc. Small-business owners, entrepreneurs, corporations and even homeowners all have to deal with the constant threat of lawsuits.

The consequences go far beyond the silly warning labels we now see on playgrounds and consumer products. (Have you seen the warning label on the kitchen knife that reads "Never try to catch a falling knife," or the baking pan that warns "Ovenware will get hot when used in oven"?)

Where does the money come from when people and businesses are forced to defend themselves from abusive lawsuits? It comes out of your pocket, in the form of taxes, and higher costs for goods and services.

According to an economic analysis by Tillinghast-Towers Perrin, the cost of the U.S. tort system for 2003 was \$246 billion, or \$845 per citizen. Little of that goes to help real victims - less than 22 cents on the dollar of those costs pay for actual economic loss to claimants. The real beneficiaries of this "tort tax" are the wealthy trial attorneys who pocket huge fees.



Proponents of legal reform in Florida say current law and abuses by aggressive trial lawyers limit even childhood fun. Opponents say proposed changes would help companies at the expense of citizens.

Lawsuit abuse is a real problem that hurts everybody in Florida, and it's time the Florida Legislature helped put a stop to it.

Not surprisingly, wealthy trial attorneys see reform as a threat to their wallets. The Academy of Florida Trial Lawyers is one of the richest lobbies in Tallahassee, and it uses its money to spread misinformation and intimidate legislators.

In one recent legislative hearing, reported in the *Tallahassee Democrat*, representatives were considering legislation that would ensure economic damage awards are allocated based on actual fault for an accident. In other words, if you are 15-percent responsible for an accident, you should pay 15 percent of the economic damages.

Sounds fair, right? But when a room full of trial attorneys realized that the legislators were actually going to approve such a common-sense measure, they resorted to the unrefined tactic of threatening a legislator. The message was: Vote against us and we will make sure you are defeated in your next election.

When confronted with the greed that makes every business or person a lawsuit target, trial attorneys typically hide behind the victims. But the trial attorney's reaction to this year's centerpiece reform - the repeal of joint and several liability - reveals the truth behind this claim. In fact, the trial attorneys are running a sophisticated political machine that uses money and intimidation for one purpose - protect the paydays for Trial Lawyer, Inc.

Nothing in joint and several liability reform makes it harder for a victim of wrongdoing to sue. Nothing makes it harder to collect a fair share of economic damages from deep-pocketed defendants.

Trial lawyers, however, will keep working to render the repeal of joint and several liability meaningless. Their latest suggestion is to allocate fault only to those they choose to name in lawsuits, and not any other parties who may be responsible. That way, attorneys can cherry-pick the deep pockets.

Allocating economic damage awards based on a proportion of fault, among all the parties responsible for an accident, is fair. It ensures defendants are held responsible for their wrongdoing. It works so well that this is currently how Florida allocates jury awards for noneconomic damages.

It's been said that a good idea sells itself. Here's a good idea: Make sure defendants pay their fair share - no more and no less.

William Large is president of the Florida Justice Reform Institute (www.fljustice.org), a coalition of citizens and organizations formed to fight wasteful civil litigation through legislation, promote equitable legal practices and provide information about the state of civil justice in Florida.