SB

377/532 File #1

TORT REFORM

(LETTERS & ARTICLES AGAINST)

Some facts about tort reform

by Rick Friedman

Do Americans sue more often than citizens of other nations?

No. According to a recent survey, when compared with citizens of other industrialized nations, Americans are really quite normal in terms of their tendency to sue, ranking in the same range as citizens of England, Ontario, Canada, Australia, Denmark, New Zealand. (*Source:* Galanter, Marc, "Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society," 31 U.C.L.A. L. Rev. 4, 55-56 (October, 1983).

Are we more likely to sue than we used to be?

No. When the population increase is taken into account, there is no indication that Americans are now more likely to sue than they used to be. (Galanter, *supra*, p. 40, fn.1; Selvin and Ebener, "Managing the Unmanageable: A History of Civil Delay in the Los Angeles Superior Court, The Institute for Civil Justice, Rand Corporation (1984), p. 34.) What then of statistics that show nearly twice as many civil actions were filed in federal district courts in 1983 as in 1977? As Professor Galanter explains:

> One third of this whole increase consisted of a jump from 600 to 41,000 cases filed by the federal government to reclaim overpayment of veterans' or Social Security benefits or to collect on student loans. The next largest gain was an increase from 3,000 to 20,000 in claims to restore disability payments cut off by the Reagan Administration . . . *these numbers reflect specific social and political events and don't point to any across-the-board increase or decrease in litigiousness.*

("Americans' 'Litigation Binge' Is a Myth," U.S. News & World Report (November 1984, emphasis added)

Are verdicts getting larger, are juries running wild?

There is not much data on this issue, but what there is, is being misused by critics of our judicial system. Most statistics come from Jury Verdict Research, Inc. (JVR). JVR itself notes its statistics are incomplete, and that it is more likely to catch large than small verdicts. Additionally, its statistics do not include defense verdicts—that is, where no money is awarded. While there were 360 verdicts of $1 million or more in 1983, JVR states:

> While an award of one million dollars or more may appear unreasonable at first glance, these are generally made to seriously injured plaintiffs, and the jury's decision to grant such a verdict is usually based upon testimony presenting legitimate computations of the plaintiff's projected lost earnings and the medical expenses necessary to sustain him for life.

JVR goes on to state that most million-dollar verdicts are awarded to plaintiffs who are permanently paralyzed, brain damaged, are killed, or who have lost a leg, arm, or both. JVR concludes:

> The overwhelming majority of million-dollar verdicts are awarded in cases where the plaintiff has been seriously injured or is completely disabled and may require medical care for life . . . [I]t should always be remembered that awards of this magnitude remain unusual and are rarely considered the norm.

Most statistics citing rapid increases in the size of verdicts do not take account of rapid inflation, or medical costs—which are rising even faster than the inflation rate.

Are medical malpractice claims more frequent than they used to be?

Yes. Medical malpractice claims over the last decade have grown at most, at an annual rate of 3.4 percent. Why? The Florida Governor's Task Force on Medical Malpractice concluded:

> The increase in malpractice actions can be attributed to a variety of factors. With health insurance and government funding, more people have access to medical care. Technological advances have increased the risks of iatrogenic injury. Care is being rendered in a variety of locations and the number of providers has not only increased but care by specialty has increased. There are significantly more variables, more actors, more settings, more procedures, and more risks.

"Toward Prevention and Early Resolution, Report and Recommendations of the [Florida] Governor's Task Force on Medical Malpractice," (April 1985) p. 34.

Has the size of medical malpractice claims increased?

Yes. St. Paul insurance company reported a growth rate in the size of claims which averaged 8.4% for the years 1981-1984. Keep in mind, however, that a large portion of medical malpractice verdicts reflect a significant amount for victims' past and future medical expenses. During this same time period, the Medical Cost Index (MCI) grew at an annual average rate of 10.5%, and the national health care expenditures (HCE) grew at an annual average rate of 13.3%. In short, nothing indicates that awards are growing at a greater rate than the damages they are meant to compensate.

By the way, researchers have consistently found that, by and large, jury verdicts in malpractice claims are based primarily on rational decisions about actual injuries to malpractice victims, and, in fact, generally *undercompensate* the victim of medical carelessness. (Danzon, "The Frequency nad Severity of Medical Malpractice Claims," The Institute For Civil Justice, Rand Corporation (1982) p. 7; "Medical Malpractice Claims: Synopsis of the HEW/Industry Study of the Medical Malpractice Insurance Claims," Health Care Financing Administration, U.S. Dept. of Health Education and Welfare, HCFA-02108 (1979) at p. VI-3.)

Are medical malpractice insurance prices the cause of rising health care costs?

No. Total malpractice insurance premiums paid in 1984 amounted to approximately one-half of one percent of the amount Americans spent on health care that year. (A.M. Best's Casualty Loss Reserve Development 1985; Gibson, "National Health Expenditures, 1983," 6 Health Care Financing Review 1 (Winter 1984).) In fact, since 1976, the cost of malpractice insurance has been steadily declining as a percentage of total health care costs. (Statistical Abstract, People's Medical Society (February 1985), A.M. Bests, *supra.*) In 1983, the average American spent nearly $1,500 on health care. (Gibson, "National Health Expenditures, 1983," *supra.*), of that, only $6.08 went to malpractice insurance premiums. (A.M. Best's, *supra.*)

Are malpractice premiums placing an unreasonable burden on physicians?

No. In 1984 the average Amercian physician spent only 2.9% of his or her *gross* income (currently estimated at around $200,000) on medical malpractice insurance. (Kirschner, "Is Your Practice Begging for More Money?," Medical Economics 214, 230 (November 12, 1984)) This is slightly more than the 2.3% spent on "professional car upkeep," but quite a bit more than the 1.2% spent on continuing education. (Id.) Even neurosurgeons, who pay the highest percentage of gross income of any specialty, are spending only 5.8%. (Id.; *See also*, Danzon, Duke University, "Evalution of the Current Malpractice System," Abstract of presentation delivered at The Urban Institute's National Medical Malpractice Conference, Feb. 21-22, 1985). Fifty-seven percent of doctors spend less than $5,000 on malpractice premiums, while only 12% spend over $15,000. (Kirschner, *supra*, at p. 229.)

Do lawsuits against doctors serve any purpose besides compensating victims of malpractice?

Yes. It has been estimated that as many as 10 percent, or 50,000 of America's doctors are impaired, or unable to practice medicine with reasonable skill because of physical or mental illness, or excessive use of drugs or alcohol. ("Impaired Physicians: Medicine Bites the Bullet," Med. World News, July 24, 1984.)

A very small percentage of doctors are responsible for a disproportionate number of malpractice claims. For example, a study by the Florida insurance commissioner revealed that, from 1975 through 1982, a group of "repeaters," comprising only 0.7% of the total number of Florida physicians, were responsible for 24% of the claims in which payments were made. The good doctors subsidize this careless minority. If you are a bad driver, your insurance goes up. If you are a bad doctor, the insurance of all doctors in your field goes up—good and bad pay the same-size premium.

State medical disciplinary boards are generally ineffective in weeding out doctors who pose a threat to disciplinary action per one thousand doctors. (Wolfe, Sidney M.,

Tort reform bill pending in Juneau

HOUSE BILL/SENATE BILL
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE—SECOND SESSION
A BILL

For an Act entitled: An Act adopting various tort reforms; amending Alaska Rules of Civil Procedure 7, 11, 49, 52, 58, 68 and 82; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. AS 09 is amended by adding a new chapter to read:

CHAPTER 17. LIMITATIONS ON CIVIL LIABILITY

Sec. 09.17.010. NONECONOMIC AWARDS.

Sec. 09.17.020. PERIODIC PAYMENTS. (a) In any action for injury or damages, a superior court shall, at the request of any party, enter a judgment ordering that amounts due the judgment creditor for losses to be suffered in the future be paid to the maximum extent feasible by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars ($50,000) in future damages. In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. The court may order that fees to the attorneys of the plaintiff be paid as a lump sum and not in periodic payments; in such event, the amount of any fees paid as a percentage of recovery shall be computed on the present value of the recovery including periodic payments. As a condition to authorizing periodic payments of future damages, the court shall require

a. Each plaintiff for whom damages for future losses are found.

2. Each element of damages for future loss.

3. The amount per week, month or year of each such element of damages for future loss.

4. The number of weeks, months or years for which damages are found each element of future loss.

(c)(1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall be subject to modification only in the event of the death of the judgment creditor. However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment

tort reform

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State medical disciplinary boards are generally ineffective in weeding out doctors who pose a threat to disciplinary action per thousand doctors. (Wolfe, Sidney M., M.D., et al., "Medical Malpractice: The Need for Disciplinary Reform, Not Tort Reform," Public Citizen Health Research Group, 1985.) Only the threat of civil suits seems to have any deterrent effect on the small minority of careless physicians. As a past president of the Federation of State Medical Boards of the United States has stated:

> A by-product of the malpractice situation, related indirectly to medical discipline, is its deterrent effect. It is sad but true that many physicians practice more carefully than they did in the past because they have one eye on the potential litigant. Malpractice becomes one of the most important disciplinary weapons in medicine—distasteful as the idea may be to physicians—so be it.

(Derbyshire, "Malpractice, Medical Discipline, and the Public," Hospital Practice (Jan. 1984). Or, as stated by other medical commentators:

> Litigation, beyond providing a means to redress the loss and suffering caused by carelessness, signals potentially negligent individuals that it will cost them more to be careless than to invest in an appropriate level of prevention . . . the malpractice system exists to discipline the occasional physician who does not (or cannot) protect his patients.

(Schwartz, William B., M.D., "Doctors, Damages and Deterrence," 298 New England Journal of Medicine 1282 (June 8, 1978).)

Is the insurance industry in financial trouble?

No. With the exception of 1974, the assets of the insurance industry have grown each year since 1955. From 1978-1985, the net worth of the property casualty insurance industry increased $36 billion, from $35.4 billion to $71.4 billion—almost a 102% increase. $7.6 billion of this gain occurred just in the last 12 months.

Between 1976 and 1983, the profitability of commercial liability insurance showed a rate of return of 19%, compared to a rate of 13.5 for American industry as a whole. The stock exchange reflects this economic health. As A.M. Best's noted in January of 1986: "While the DOW Industrials Average has made headlines by surpassing the 1500 mark (a 25% gain for the year), Best's Index of property/casualty [insurance] companies has jumped 50% at this writing. . ." (Best's Review, Property/Casualty Insurance Edition, January 1986).

What then is the "insurance crisis" all about?

Robert Hunter, an actuary, former Federal Insurance Administrator, and president of the National Insurance Consumers Organization, probably said it best:

> I do not believe that there is a crisis across the nation. I believe we are witnessing joint action by insurers intended to create an atmosphere where rates can be put too high and legislators will be intimidated into action designed to take away victims' rights and to allow wrongdoers to go unpunished.

(Testimony before the Wisconsin Commissioner's Special Task Force on Property/Casualty Insurance, 12/18/85)

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(c)(1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall be subject to modification only in the event of the death of the judgment creditor. However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment debtor to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees.

(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security given pursuant to subdivision (a) shall revert to the judgment debtor.

(e) As used in this section:

(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earning capacity, or any future noneconomic loss.

(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at

Crisis in Liability Insurance Is Creating Mounting Pressure for New Legislation

By Stephen Wermiel
Staff Reporter of The Wall Street Journal

WASHINGTON — The crisis over the soaring cost and scarcity of liability insurance is creating mounting pressure on Congress to act.

"The insurance problem is just all over the place," says Sen. John Danforth (R., Mo.), chairman of the Senate Commerce Committee.

The lightning rod for action is legislation to change the law of product liability — the part of the tort system in which those injured in accidents while using products from cars to telephone booths file lawsuits for damages against companies they blame for their injuries. Such changes have been hotly debated in congressional committees for several years, but now there is "greater urgency," says Sen. Danforth, whose staff is drafting legislation.

Added pressure will come from the Reagan administration, which is circulating its own proposed product-liability legislation. While the president's proposal will meet some opposition, it may also serve as a catalyst. "This will provide the 500-pound gorilla that's been missing," says Philip Harter, a Washington lawyer who is pushing for changes in the law.

Time May Run Out

Consumer-group opposition, and differences in legislative approaches, may thwart the pressure created by the crisis. "Legislation will make it out of committee and maybe even through the Senate, but I don't think there's time for the House to act this year," says Victor Schwartz, a lawyer and former law professor who represents the Product Liability Alliance, a business coalition pushing for changes in the law.

Past efforts, led by Sen. Robert Kasten (R., Wis.), focused on setting national standards for state and federal courts, specifying when manufacturers or distributors may be liable. Critics viewed the proposal as relieving the liability of manufacturers at the expense of accident victims. The bill became tied up in committee.

Now, Sen. Danforth is trying a different approach, one that is more a change in procedures than standards. His plan, still being drafted, wouldn't change liability, but would provide financial incentives to both sides to encourage settlements and discourage going to trial.

A Different Approach

The proposals the administration is drafting take a different approach, sources say, proposing to limit punitive and pain and suffering awards to $100,000, capping fees charged by plaintiffs' lawyers on a sliding scale of 25% of the first $100,000 in damages down to 10% after $300,000. The administration would stop the practice of making defendants jointly liable, which has led to well-off defendants who were only partly responsible paying in full. These changes would be both in product liability cases and in lawsuits against the federal government and federal contractors.

However, the administration would also partially return to Sen. Kasten's controversial approach, setting liability standards for products, such as requiring proof of a negligent design or a defect. Similar proposals are in a bill introduced by Sen. Mitch McConnell (R., Ky.). Administration officials are seeking support from Sens. Danforth, Kasten and Slade Gorton (R., Wash.), hoping for some accommodation.

The crucial question is whether there is a compromise and on what terms. Sen. Danforth says, "I'm flexible, but some things in the administration's bill will be very difficult to sell."

Cuomo's Solomon-Like Panel Says Both Sides Are Right

NYTimes 4/13/86

A Liability-Insurance Crisis, Continued

By JEFFREY SCHMALZ

ALBANY

WHEN Governor Cuomo was presented last week with the 203-page report of his commission investigating the state's liability-insurance crisis, he noted wryly, "Not everyone will agree with all of the conclusions."

As it turns out, that reservation covered the Governor himself. Mr. Cuomo embraced much of the report, preparing legislation to enact many of its findings in an effort to lower spiraling premiums that have left some businesses and municipalities without coverage, forcing them to cancel or interrupt services.

But the Governor rejected one of the panel's most important and politically sensitive recommendations — that a limit be imposed on the size of legal settlements that municipalites and other public entities, such as school districts, pay to accident victims for "pain and suffering."

That recommendation is the opposite of what the Governor and his fellow Democrats who control the Assembly had wanted to hear. And the best public-relations efforts by the administration — including Mr. Cuomo's praise of the commission only hours after its report was released, and his rush to embrace most of its findings — could not mask the fact that the Governor had been undercut on a key point by a panel he had appointed.

"There is no demonstration that the cap is necessary," Mr. Cuomo said of the proposed $250,000 limit on pain-and-suffering awards. "It seems to me, before doing anything as drastic as rationing the justice that comes out of the best judicial system in the world by artificially limiting the amount of recovery, we should have a clearer showing of necessity."

But while the limit may not have been what the Governor wanted to hear, it was what the Senate's Republican majority has been proposing all along. And when legislators return from a spring recess Wednesday, the Republicans will almost certainly start citing to Mr. Cuomo the finding of his own commission.

That is not to say that Republicans have no problems with the report. The 25-member commission also called for tighter regulation of the liability-insurance industry, which does not sit well with the Senate majority.

In essence, the panel tried to strike a compromise between two conflicting views here on the cause of the insurance crisis. Republicans have argued for months that the problem is in the civil-justice system. Juries, they contend, are making unreasonably large awards that ultimately drive up premiums. Democrats, on the other hand, argue that the problem is with the industry itself, that insurance companies made bad investments and, because of fierce competition, kept rates artificially low for too long.

In a Solomon-like election-year conclusion, the report found that both sides were right. It recommended that the state's Insurance Superintendent be given greater control over rates and that the state's Consumer Protection Board be assigned a monitoring role. It also recommended changes in the civil-justice system, including the cap (which would apply only to pain-and-suffering awards, not to those for medical costs or loss of income) and the payment of large settlements over a period of years, rather than in lump sums.

To make the restructuring of awards and settlements more palatable to Democrats, the panel proposed that insurance companies be required to reduce their rates, which would be subject to final approval by the state.

But while the report contained something for everyone to like, it also offered something for everyone to hate. And instead of bringing both sides together, it initially led each to seize upon specific sections as vindication for its position.

To complicate matters further, Governor Cuomo, despite his praise for the commission and its work, has let it be known that he is not sure all of its data are reliable. His Insurance Superintendent, James P. Corcoran, who was a member of the panel, is conducting still another inquiry, examining the books of insurance companies. The commission, which did not have subpoena power, relied on industry-wide data.

And Mr. Cuomo persists in hinting — despite the commission's flat-out rejection of the notion — that maybe the crisis was manufactured by the industry as an excuse to raise rates. "I believe the precise nature of the insurance industry's collective behavior over the past few years is still in doubt," the Governor said, "and may warrant further examination."

Jnu Empire 4/15

Tort reform benefits only insurance industry

Dear Editor

I have been practicing law for 20 years, 19 in Alaska. I have represented and do represent both sides in personal injury tort actions. I agree that insurance is outrageously expensive. However, it is my opinion that the current problem with liability insurance is a crisis which has been manufactured by the insurance industry for the purpose of creating a panic to water down the basic protections we have from injuries caused by others. There is an unprecedented amount of propaganda and misinformation being circulated in the media and Juneau concerning the cause of high insurance rates. The most important single fact to understand is that insurance companies are misrepresenting their losses and what citizen juries are doing.

For example, the insurance industry claimed a $5.5 billion loss in 1985. The National Insurance Consumer Organization has revealed that in this claimed loss, the insurance industry neglected to include $2.1 billion it paid out in dividends to stockholders and $8.4 billion in capital gains, yielding a profit of $5 billion.

The insurance industry itself admits it made a mistake in under pricing premiums during the era of high interest rates. It now is seeking to make up its lost interest income in one year while at the same time creating a panic among consumers.

The insurance industry is extremely powerful. They are not regulated. They have a great deal of money and want more. They ask us to trust them without showing us their true data. They are demanding, through what amounts to insurance premium and cancellation blackmail, that we abandon our carefully evolved system of civil law and personal responsibility because they say it's necessary. Jury verdicts are not running away. Judges are not insane. Law is not a lottery. Juries, after all, are the democratic public itself.

Business Week, a rather conservative publication, has commented:

"For many years, insurance carriers slashed premium prices and wrote as much insurance as they could get. Many companies abandoned traditional underwriting standards and competed fiercely for premium dollars they could invest in high-yield debt. This so-called cash flow underwriting is probably responsible for most of the damage to company balance sheets today.

"With careful management, these mistakes can be corrected. But instead, the industry has spent most of its time and energy lately mobilizing attacks on the U.S. tort system....

"It is likely that the risks that society agrees must be insured will gradually be spread among insurance carriers, insurance users, and where appropriate, government. That is a better way to deal with liability claims than restricting the rights of injured people to their day in court."

Aviation Consumer magazine agrees and has come to the realization that it's not lawyers, courts, and juries who are to blame, but rather the insurance industry itself.

The Board of Governors of the Alaska Bar Association held hearings in Anchorage in March, inviting representatives of all various affected groups to participate. Significantly, the insurance industry has declined to reveal their true economic data and admits that in the era of high interest rates they oversold to get customers and now want to correct this business error. It has further been admitted by the insurance industry that the revolutionary and destructive changes they are demanding will not lower insurance rates. Indeed, they say themselves they will not know what effect any changes will have for at least 10 years. Nonetheless they are proceeding to engender a panic hysteria to attempt to force industry profitable change through confusion, threats, and scare tactics. These are admittedly strong words but appropriate for what is really going on in Juneau. It is estimated that the insurance industry has spent over $2 million through approximately 20 lobbyists to date attempting to influence repressive legislation in Juneau that will ultimately severely harm the people of Alaska.

Rational analysis of the facts and responsible discussion is necessary. Hysteria and lynch mob accusations do not serve anyone's best interests.

Very truly yours,
Robert H. Wagstaff
912 W. Sixth Ave.
Anchorage, 99501

Tort 'reform' bill hurts the citizen

Dear Editor:

I am writing out of concern for the so-called tort "reform" legislation now pending in Juneau which does not present "reform" to the tort system in any meaningful way that would help injured persons. It was not initiated by persons who had been wronged by our legal system because they could not obtain compensation for their injuries. Instead it is the product of insurance company interest groups advocating their own self-interest.

This bill is not in the best interests of the individual citizens of this state, and is being rushed through as a knee-jerk reaction to a completely separate problem. On the one hand insurance premiums have been increasing in an unacceptable manner. However, the solution to that problem is hardly the "cure" that the insurance industry has self-diagnosed of penalizing injured citizens in this state by limiting their tort recovery or even ability to obtain counsel.

One amendment to the above referenced bill which was tacked on after it left committee limits non-economic damage awards to 25 percent of economic damages. I had a trial which was originally scheduled to begin this morning in which a physician's testimony was required. I was told his minimum fee for testifying in court was going to be at a minimum $2,400. This is a cost which is not for all practical purposes recoverable even if one wins, and comes from the injured person's otherwise recovery. Accordingly, an unemployed person such as a homemaker with $10,000 in medical bills could go to trial, be awarded $10,000 the maximum allowed under the bill, and end up with no recovery at all. Once injured persons in our state come to realize that they have been disenfranchised by their own elected representatives, it will be too late.

I have been saddened to see so many businessmen have been misled to believe that this bill is somehow going to remedy the insurance premium increases that were consequent from completely unrelated factors such as poor investments, careless claims writing practices, and loss of insurance company revenues in a period of dropping interest rates. It is my understanding that the legislation which has emerged does absolutely nothing about requiring insurance companies to limit their premium increases and in fact the insurance industry has refused to make any such promises.

Sincerely,
Dale J. Walther
807 G St., Suite 300
Anchorage, 99501

dear letter 4/29/92

COALITION FOR CONSUMER JUSTICE

WHAT HAPPENS TO INSURANCE RATES

WHEN "TORT REFORM" LEGISLATION IS ENACTED?

Virtually every "tort reform" measure the industry is seeking is currently the law in Ontario, Canada. Yet the insurance industry is raising premiums by 400 percent, cancelling coverage in mid-term and refusing to provide coverage at any price in Ontario, Canada just as it is in the United States. For Example:

* The insurance industry has refused to provide insurance at any price for Ontario day care centers.

* The insurance industry has refused to provide insurance at any price to all but 1 of 121 Canadian School Boards responding to a questionaire.

* The insurance industry has refused to provide liability insurance for Toronto and many other cities.

* The insurance industry has raised premiums 1000 percent and at the same time reduced coverage for the Ontario intercity bus industry.

* Hospitals in Toronto can still get insurance, but only at "greatly increased" premiums.

* An insurance company renewed the Ontario School Bus Operators Association's policy on December 1, 1985 -- at 400 percent more than it charged the year before.

If any of the organizations denied coverage were ever sued -- and many of them have never been sued in the past -- they would be sued under the laws of Ontario, where pain and suffering awards are capped at $185,000, punitive damages are virtually non-existent, contingency fees are prohibited and the plaintiff must pay the defendant's attorney's fees if he loses. Yet the insurance industry is raising its rates 400 percent and more, cancelling policies in mid-term and refusing to provide coverage at any price both in the U.S., which has not enacted the tort provisions the industry seeks, and in Ontario, Canada, where such provisions have long been in the law.

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FACT SHEET ON THE INSURANCE CRISIS

1. The insurance crisis is due primarily to the cyclical nature of the insurance industry.

Insurance companies cut their prices when interest rates, and thus their income from investing the premiums they collect, are high; they raise their prices when interest rates, and thus investment income, are low. They overreact at both the top and the bottom of the cycle. (See Chart 1.)

Wall Street understands the insurance industry cycle: while the price of insurance rises and falls, insurance stock prices just keep on rising. For example, since 1975 the property/casualty insurance stock index rose almost 500%, while the Dow Jones Industrial Average did not even double. And during 1985, as insurers complained of their dire financial condition, the property/casualty index rose by 50%, almost twice the rise in the Dow. (See Chart 2.)

2. The special privileges enjoyed by the insurance industry are largely responsible for the insurance cycle. For example:

A. <u>The insurance industry is exempt from the antitrust laws</u>. This allows insurance companies to agree to raise their prices without fear of antitrust prosecution. Executives in other industries who act in concert to raise prices can go to jail.

B. <u>The insurance industry is exempt from federal regulation</u>. In all other cases, when the federal government exempted an industry from the antitrust laws it substituted regulation for antitrust enforcement, as it did with trucking, railroads and utilities. The insurance industry is unique: that it is exempt from <u>both</u> antitrust enforcement and federal regulation, leaving the federal government impotent to deal with the dramatic price rises, mid-term cancellations and refusals to insure at any price so prevalent today.

C. <u>The insurance industry is protected from competition by state regulation</u>. Many state laws prohibit businesses, as well as consumers, from joining together to buy insurance at a lower rate, and state and federal laws prohibit other financial institutions from selling insurance.

D. <u>The insurance industry is exempt from Federal Trade Commission scrutiny</u>. In 1979, after the FTC published a study critical of the life insurance industry, Congress prohibited the FTC from ever again studying -- let alone prosecuting -- any sector of the industry.

3. The property/casualty insurance industry is exempt from federal taxation.

According to the General Accounting Office, the property/casualty insurance industry earned a profit of $75.2 billion during the period 1975-84, yet paid no federal income tax. The industry's tax exemption is due primarily to three insurance industry accounting privileges; the most significant such privilege is the provision allowing insurance

In my opinion

by L. Ames Luce

IT IS UNFORTUNATE that Brad [illegible]ey in his "Assembly report" of April 2 has chosen to utilize his column to advocate "tort reform" and to support such advocacy with half-truths and innuendos and a total absence of objectivity. This perhaps is not surprising considering his acknowledged source of information — that being the "Citizens Coalition for Tort Reform," a group supported and principally funded by the insurance industry and other vested interests.

In the March 10 issue of Business Week, a publication dedicated to a reporting of activities within the United States business community, in a lead editorial on page 140 the following comments are found, which factually summarizes the reason for our "insurance crises."

"For many years, insurance carriers slashed premium prices and wrote as much insurance as they could get. Many companies abandoned traditional underwriting standards and competed fiercely for premium dollars they could invest in high-yield debt. This so-called cash flow underwriting is probably responsible for most of the damage to company balance sheets today.

"With careful management, these mistakes can be corrected. But instead, the industry has spent most of its time and energy lately mobilizing attacks on the U.S. tort system. . . .

"It is likely that the risks that society agrees must be insured will gradually be spread among insurance carriers, insurance users, and where appropriate, government. That is a better way to deal with liability claims than restricting the rights of injured people to their day in court."

MR. BRADLEY ASSERTS that some of the causes of the problem are the increasing trends for larger non-economic awards, the lottery mentality of injured plaintiffs and that contingency fee arrangements encourage frivolous lawsuits. Neither fact nor reason support such assertions.

The extensive hearings which have recently been concluded by the House Labor and Commerce Committee in Juneau did not disclose that jury verdicts in Alaska were running wild, or have even exceeded inflation during the past five years. Reason further asks, if a plaintiff's counsel is to be only compensated under the contingency fee system if he wins, how then does such a system induce him, or his client, to file frivolous lawsuits? Only if payment is to be made to the attorney by the hour, as insurance defense lawyers are compensted by their masters, is frivolous activity monetarily rewarded.

Mr. Bradley then proceeds in his "Assembly report" to catalog his remedies to the "tort crises" which have been drafted and sponsored by the insurance industry, and which are the most comprehensive assault on the rights of injured people in our state's history. These solutions are a rehash of SSHB532 and provide:

- Structured payments — This would allow an insurance company to pay an injured victim damages which a jury would award, not in a lump sum, but over time, ignoring the eroding fact of inflation and putting the investment proceeds from the delay in paying the victims award into the insurance company's own pocket.
- Attorneys fees — This would restrict plaintiff's attorneys fees so that in many cases claims which would be expensive to pursue, such as those resulting from product liability or medical malpractice, could not be maintained, placing no limitations on the amount that an insurance company could spend for its attorneys.
- Punitive damages — This would require the recovery of all punitive damages by a plaintiff to be paid to the state. Since no plaintiff would derive benefit from receiving such damages, they would never again be sought.
- Death benefits only to be paid to economic dependants — This would deny a mother's right to recover for the death of her child killed by a drunken driver (the mother is not a dependent of her child), but allow the mother to be compensated for the death of a family dog killed in the same accident, because the dog would be considered as property.
- A two-year statute of limitations from the time of the act or omissions. Such a restriction precludes recovery in many accidents where a defect in design or manufacture of a product more than two years old caused the accident.

IN EACH SECTION out of SSHB532, there is a systematic and devastating assault upon the rights of the citizens of this state which will not only affect their interests, but the interests of their children and their children's children.

We are experiencing an insurance crisis, and legislation is urgently needed to correct the many insurance abuses which have caused this problem, and which are presently being permitted to go unchecked.

The question is simple. Do we, as citizens, wish to continue in our democratic society to place our confidence and trust in our fellow citizens? These citizens are the members of our juries who decide what is fair and just compensation. Or do we wish that those decisions be made for us by the insurance industry and other vested-interest groups?

The answer to this very important question will probably be resolved by our legislature before it recesses this session. If the citizens do not now make their wishes heard, the decision will be made for them by the hoards of insurance lobbyists who have now descended upon our legislators in Juneau.

L. Ames Luce is a member of the Board of Governors of the American Trial Lawyers, a member of the Alaska Academy of Trial Lawyers, and a 20-year resident of Alaska.

Quotes

"America geared up to meet the Soviet challenge of being the first into space, then pursued an all-out effort to go to the moon. Unfortunately the momentum of the Apollo program was not sustained, resulting in what has been called the lost decade of progress."

— From a report on the future of the U.S. space program by business and advis[illegible]

Anchorage Times 4/3/86.

Chugiak-Eagle River
Chamber of Commerce

P.O. Box 770353 / Eagle River, Alaska 99577

"PLACE OF MANY PLACES"

April 11, 1986

Senator Tim Kelly
Post Office Box V
Juneau AK 99811

Dear Senator Kelly,

On April 11th the Chugiak - Eagle River Chamber of Commerce Board of Directors unanimously approved the following resolution:

> "Be it resolved the District 15 Legislators be requested to vote against C.S.S.S.H.B. 532."
>
> "Be it further resolved that legislation which lessons the rights of injured persons should only be approved if there are guarantees that the reduction of these rights will substantially reduce liability premiums."

I am submitting this letter at the direction of the Board of Directors and request that you keep the Chamber advised on developments.

Respectfully,

Edgar W. Smoot
President

EWS:azh

Read 4/29/86

ALASKA ACADEMY OF TRIAL LAWYERS
1015 W. 7th Ave.
Anchorage, AK 99501

FOR IMMEDIATE RELEASE
April 22, 1986

FOR MORE INFORMATION CALL:
Ames Luce 276-1191

STATE MEMO SAYS INSURANCE COMPANIES VERY PROFITABLE IN ALASKA

Counter to unsubstantiated claims by the insurance industry, a memo written by the state's Chief Financial Examiner for insurance indicates that Alaska insurers are in excellent financial shape. The top 13 regulated insurance companies doing business in the state maintained loss ratios 20% better than the conventional break-even point for the "Other Liability" line during 1985, and performed better in Alaska than they did nationally The businesses most hard hit by the recent round of rate increases are covered by "Other Liability" line policies.

"Overall, in spite of all the tears that the industry is shedding, it appears to me that the insurance industry is doing quite well for this line," concluded Donald DeMuth, author of the memo. DeMuth also called on Division of Insurance Director John George to conduct followup investigations of company rate-setting.

— more —

"The greediness of the insurance industry in this state appalls me," asserted Ames Luce, an Anchorage attorney. "The figures indicate that companies were making sizeable profits BEFORE they began imposing massive increases. Businesses and consumers have been bludgeoned by rate hikes in the last 6 months, and all that money is going straight into the companies' pockets."

"I want to know why the industry is trying to pull off this charade, I want to know why the Division of Insurance continues to approve the rate increases without adequate substantiation, and I want to know when Alaskans can expect rate relief on insurance policies," Luce said.

The Division of Insurance memo indicates that the top 13 insurance companies had an average "loss ratio" of 62.3%, compared to a national average for those companies of 73.4% during calendar year 1985. (The "loss ratio" is the industry benchmark for profitability and is calculated by dividing "losses incurred" by "premiums earned". According to industry analysts, a company breaks even, including a healthy profit, with a loss ratio of 70%. Lower loss ratios mean higher profits for the company.)

A more accurate picture of the industry's health is found if statistics are compiled on an accident year basis (accidents that actually occurred in 1985). The same 13 companies averaged a

— more —

63.3% loss ratio if nationwide business is taken into account, while DeMuth "guesstimates" that their Alaska business alone generated a very profitable 50% loss ratio.

"The insurance industry has nearly two dozen lobbyists in Juneau pushing to reduce wrongdoers' responsibility, pushing to reduce victims' rights and pushing to increase company profits," said Luce. "I think it's time our legislators called a halt to this charade."

The line of insurance analyzed in the memo covers municipalities, day care centers, non-profit boards of directors errors and omissions insurance for architects and engineers and malpractice insurance for attorneys. Excluded are auto, Workers' Compensation, aircraft and medical malpractice insurance.

-END-

THE NEW YORK TIMES, Friday, April 25, 1986

Forum

REFORM INSURANCE, NOT LIABILITY LAW

Taming the Latest Insurance 'Crisis'

By ROBERT HUNTER

THE latest liability insurance "crisis," like its predecessors, is widely attributed to overly generous juries and court decisions expanding manufacturers' liability. As in the preceding "crisis," in 1975, little is said about the fundamental cause — the sharp ups and downs of the insurance industry's profit cycle.

The gradual expansion of legal liability and the profit cycle are distinct phenomena and should be treated separately. The former has not caused rates to increase dramatically; the profit cycle has. Thus, limiting liability and restricting jury awards will not avert future insurance squeezes, but flattening the insurance cycle will.

Consider the roller-coaster ride the insurance industry has taken us for in the last decade:

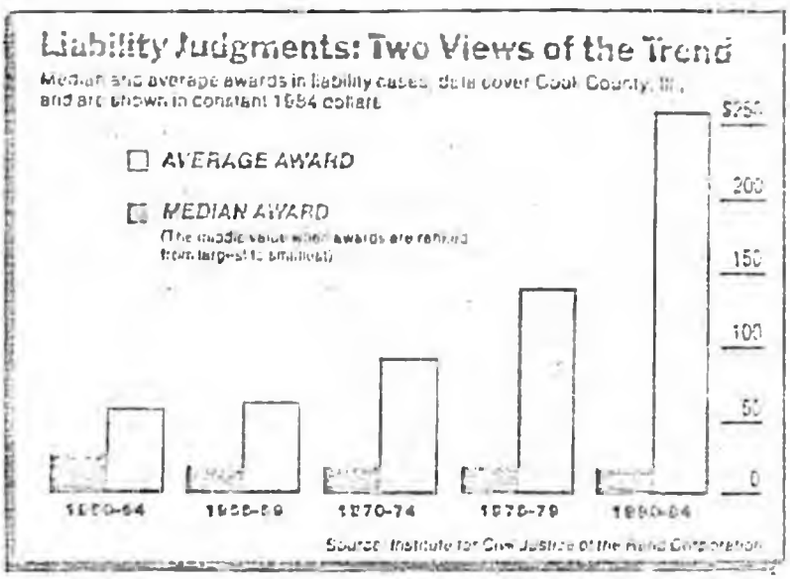
• 1975. The bottom. The industry earned 4 percent on equity, well below the average for all industry.

• 1976 to 1977. The ascent. The cost of insurance skyrockets by 300 percent or more for many doctors, manufacturers and others, as insurance companies' profits leap by more than 500 percent.

• 1978 to 1984. The fall. The high profits attract a flood of new capital. Insurers begin cutting prices and insuring poor risks, so as to obtain as many premium dollars as possible to invest at the high interest rates that prevail. Not surprisingly, the industry's profits decline, to a 2 percent return on equity in 1984.

• 1985 to 1986. A new ascent. As in 1976 and 1977, doctors, manufacturers and municipalities, this time joined by day-care centers and nurse midwives, find insurance costs rising by 300 percent and more — if they can get insurance at all. As the industry raises total premiums by $25 billion while reducing coverage, the stock prices of liability insurance companies rise by 50 percent, twice the rise of the Dow Jones industrial average. During the first quarter of 1986, insurance stocks rose another 22 percent.

Today, as in 1976, the insurance industry blames the legal system for the huge premiums. Their implausible claim is that judges and juries became generous in 1976, stingy for the next eight years and inexplicably generous again in 1985.



Actually, liability awards are remarkably consistent. In constant dollars, the median award has hovered around $20,000 over the last 25 years, according to the Rand Corporation's Institute for Civil Justice, although the average award has risen appreciably, reflecting the impact of a few huge settlements.

Legislated limits on liability awards have proved ineffective. Many cities and towns in Pennsylvania, for example, cannot get insurance even though the legislature virtually immunized them from liability the last time insurance rates shot up. The reason, simply, is that insurance rates and availability are determined by the profit cycle, not by juries.

Perhaps most significant, insurance companies have consistently refused to reduce their rates in exchange for legal limits on liability. If their problems were traceable to the civil justice system, then they should jump at the offer.

Certainly, the legal system is not perfect. Reforms such as limiting fees for both plaintiff and defense lawyers and penalizing frivolous suits and frivolous defense delays, would enhance efficiency. But it would be unfair and nonsensical to limit compensation for injuries without proving that such a reform would work and providing an alternative.

Our experience with no-fault auto insurance is instructive. No-fault systems were enacted only after exhaustive studies showed that people with relatively minor injuries were overcompensated while people with severe injuries were undercompensated. Thus, a no-fault system for small claims made sense.

In contrast, the package of "reforms" sought by the insurers (and recently endorsed by President Reagan) not only involves no trade-offs — it takes away rights of injured people without giving them anything back — but is unsupported by any data about how victims fare under the current system, what drives up costs and how a given reform would affect victims or change system costs.

RECURRING insurance crises will be controlled only by insurance reform. Although insurance is a national, $310 billion business, it is regulated only by the states. But most state regulation is of consumer insurance; commercial insurance is almost entirely deregulated. Thus, deregulated commercial insurers are exempt from Federal antitrust laws and from oversight or prosecution by the Federal Trade Commission, and effectively exempt from Federal income taxes. Over the last 10 years, property/casualty insurers earned $75 billion but received a net tax refund of $125 million.

Last week, a special commission in New York proposed a plan that would restrict insurers' freedom to set rates and cancel coverage, and would give municipalities the right to form insurance pools. In return, insurers would get some protection against frivolous suits, the right to jury out settlements over several years and protection against one insurer paying the entire award when several parties share responsibility.

The plan, combined with Governor Cuomo's stipulation that limits on liability awards be accompanied by reductions in premiums, has much merit, and, if enacted, would be a constructive step and an excellent model for other states. But more needs to be done on the Federal level. Specifically, Congress should do the following:

• Repeal the insurance industry's antitrust exemption. Now, committees of the Insurance Services Office, a rate-making organization run by the insurance companies, set rates for most types of insurance.

• Create a Federal Office of Insurance to monitor the industry and establish minimum standards for state regulators.

• Repeal the insurance industry's exemption from Federal Trade Commission jurisdiction.

• Expand the Risk-Retention Act, which allows manufacturers — but not other businesses — to join together to self-insure or bargain for lower rates. This would preempt state laws.

The states could take several steps to bring down rates, starting with enforcing their own laws. Most states rely on competition to control rates, but competition cannot control prices when the periodic cartel pricing takes over. And states should follow New York's example and require insurers to give adequate notice of, and clear reasons for, cancellations or refusals of new coverage.

They should also build up their regulatory bodies — half do not even have actuaries, and few require consumer representation. One exception is New Jersey, where the public advocate may intervene in insurance rate cases, with the cost borne by the insurer seeking a price increase. This both discourages insurers from seeking exorbitant increases and minimizes public outlays.

The roller coaster is now reaching the top of the first big hill — the steep part of the ride, toward excessive profits. In a year or so, the downward trip will start, heading us toward a 1995 "crisis." To stop the roller-coaster ride, Congress should apply the brakes of insurance reform.

Robert Hunter, Federal Insurance Administrator from 1974 to 1978, is president of the National Insurance Consumer Organization, a consumer-oriented research organization.

MEMORANDUM State of Alaska

dead letter 4/29/86

TO: John L. George, Director

DATE: March 17, 1986

FILE NO.:

THRU:

TELEPHONE NO.:

SUBJECT: 1985 Underwriting Results Other Liability

FROM: Donald DeMuth
Chief Financial Examiner

You have asked me to review the underwriting results of approximately the 10 leading writers of the line "Other Liability" "(17)" in the State of Alaska. The results of my study follow.

You will note that I have actually supplied statistics on 13 companies. The reason for the three additional companies are: You stated that you did not want companies like "State Farm" - companies that are not traditionally considered to be writers of Other Liability included. For this reason, I did not know if you wanted ARECA Insurance Exchange included or not. I added one company and you may exclude "ARECA" if you wish. I also question the accuracy of the Continental Insurance Company's Alaska direct losses incurred figure, and both noted a probable aberration in schedule "P" figures and am aware that CIGNA made some big reserve adjustments which may well be without basis at year-end, and which may have skewed Alaska Pacific Assurance Company's figures. You may, hence, eliminate the figures for these two companies if you wish and still be left with the statistics on 10 companies. I also eliminated the figures for the Insurance Company of North America as their page 14 figures for this line are probably erroneous and meaningless.

The first area of experience that I looked at was the company's direct underwriting results in Alaska. The results are summarized as follows:

Rank by Premium Written In Alaska		Alaska Direct Premium Written	Alaska Direct Premium Earned	Alaska Direct Losses Paid	Alaska Direct Losses Incurred	Alaska Loss Ratio
12	Federal Insurance Company	$ 759,348	$ 556,132	$ 4,380	$ 32,347	5.8%
13	The Continental Ins. Co.	552,533	558,869	299,050	(387,290)	*
10	Pacific Marine Insurance Co. of Alaska	792,416	809,528	150,530	245,804	30.4%
2	Alaska National Ins. Co.	3,938,343	2,703,705	1,581,866	2,173,774	80.4%
1	AK Pacific Assurance Co.	4,148,556	4,329,380	1,845,266	2,960,272	68.4%
7	Fremont Indemnity Co.	1,581,809	1,600,374	283,530	856,617	53.5%
9	ARECA Insurance Exchange	975,398	975,398	50,649	175,312	18.0%
6	Providence Washington Insurance Co. of Alaska	1,827,910	2,424,073	4,275,334	2,817,529	116.2%

5	Industrial Indemnity Company of Alaska	1,838,269	1,842,175	1,236,617	1,423,207	77.3%
4	Alaska Insurance Company	1,870,198	1,539,729	576,349	896,926	58.3%
3	Nat'l Union Fir Ins. Co.	3,732,726	2,639,895	170,668	577,159	21.9%
11	Employers Insurance of Wausau, A Mutual Company	759,889	675,147	124,435	992,116	147.0%
8	General Accident Ins. Company of America	1,004,405	996,593	22,957	733,765	75.7%
		$23,781,808	$21,649,998	$10,621,731	$13,497,833	62.3%

* Meaningless

The column above entitled "Alaska Direct Losses Paid" is not of much significance. I included it only to illustrate the great disparity between losses paid and losses incurred in certain cases. There are a number of possible reasons for this disparity, but I cannot identify which reason is responsible for the cases reflected in the above exhibit.

For comparative purposes, I attempted to develop the same information for the same companies on a national basis. The companies are not required to provide this information on a national basis, but a few companies volunteer and, hence, complete page 14 of the annual statement on a national basis. The results of this comparative study does not reveal very much information, but the results are as follows:

Rank by Premium Written In Alaska		National Direct Premium Written	National Direct Premium Earned	National Direct Losses Paid	National Direct Losses Incurred	National Loss Ratio
12	Federal Insurance Company	Information not available.				
13	The Continental Ins. Co.	Information not available.				
10	Pacific Marine Insurance Co. of Alaska	Information not available.				
2	Alaska National Ins. Co.	Information not available.				
1	AK Pacific Assurance Co.	Information not available.				
7	Freemont Indemnity Co.	$31,645,042	$34,211,163	$25,679,707	$53,934,431	157.6%
9	AREA Insurance Exchange	National experience same as Alaskan experience.				
6	Providence Washington Insurance Co. of Alaska	Information not available.				
5	Industrial Indemnity Company of Alaska	Information not available.				
4	Alaska Insurance Company	National experience same as Alaskan experience.				
3	Nat'l Union Fire Ins. Co.	Information not available.				
11	Employers Insurance of Wausau, A Mutual Company	Information not available.				
8	General Accident Ins. Company of America	Information not available.				

In an attempt to get some kind of comparative information - Alaska vs. National - I then decided to take a look at the same companies' net national business. This is not a direct comparison due to the fact that net business is net of assumed and ceded reinsurance, but the annual statement does not reflect direct national premium earned, only written, so I had no choice.

The result of this study is as follows:

Rank By Premium Written In Alaska		National Net Premium Written	National Net Premium Earned	National Net Losses Paid	National Net Losses Incurred	National Net Loss Ratio
12	Federal Insurance Company	$223,854,784	$166,392,450	$ 42,483,524	$ 85,539,084	51.4%
13	The Continental Ins. Co.	38,763,790	32,026,227	19,576,743	30,650,173	95.7%
10	Pacific Marine Insurance Co. of Alaska	Not Applicable				
2	Alaska National Ins. Co.	2,077,778	1,547,010	222,217	1,051,634	68.0%
1	AK Pacific Assurance Co.	3,084,456	3,271,879	3,995,018	5,151,751	157.5%
7	Fremont Indemnity Co.	33,824,745	26,542,239	11,277,702	36,844,816	138.8%
9	AREA Insurance Exchange	823,895	823,895	50,649	175,312	21.3%
6	Providence Washington Insurance Co. of Alaska	Not Applicable				
5	Industrial Indemnity Company of Alaska	Not Applicable				
4	Alaska Insurance Company	Not Applicable				
3	Nat'l Union Fire Ins. Co.	357,841,310	283,621,245	80,724,018	222,277,500	78.4%
11	Employers Insurance of Wausau, A Mutual Company	112,716,611	104,759,065	73,570,268	73,177,983	69.9%
8	General Accident Ins. Company of America	31,863,701	29,249,804	10,955,921	20,886,903	71.4%
		$805,656,070	$646,233,815	$242,856,260	$475,756,156	73.6%

I also felt that it might be interesting to make a similar review on an accident year basis rather than on a calendar year basis. The reason for this comparative review is that reserve changes made during 1985 applicable to prior year business is reflected in the calendar year 1985 experience, but not in the 1985 accident year experience. The accident year business only reflects the company's experience on accidents that actually happened during 1985. The result of this review is as follows:

Rank By Premium Written In Alaska		Nat'l Net 1985 Accident Year Premium Earned	Nat'l Net 1985 Accident Year Loss Payments	Nat'l Net 1985 Accident Year Losses Incurred	Nat'l Net 1985 Accident Year Loss Ratio
12	Federal Insurance Company	$166,392,450	$ 8,109,100	$ 77,210,574	46.4%
13	The Continental Ins. Co.	32,026,247	1,618,902	24,550,326	76.7%

10	Pacific Marine Insurance Co. of Alaska	Not Applicable			
2	Alaska National Ins. Co.	1,547,010	34,420	1,012,476	65.5%
1	AK Pacific Assurance Co.	3,271,879	414,259	2,790,689	85.3%
7	Fremont Indemnity Co.	26,542,239	1,605,638	26,435,512	100.0%
9	ARECA Insurance Exchange	823,895	30,435	362,961	44.1%
6	Providence Washington Insurance Co. of Alaska	Not Applicable			
5	Industrial Indemnity Company of Alaska	Not Applicable			
4	Alaska Insurance Company	Not Applicable			
3	Nat'l Union Fire Ins. Co.	283,621,245	7,168,490	211,149,405	74.5%
11	Employers Insurance of Wausau, A Mutual Company	104,759,072	6,085,504	80,311,511	48.7%
8	General Accident Ins. Company of America	29,249,801	1,125,201	16,247,129	55.6%
		$548,233,838	$ 26,192,929	$410,070,584	65.3%

Overall, in spite of all the tears that the insurance industry is shedding, it appears to me that the insurance industry is doing quite well for this line. Unfortunately, accident year direct statistics are not available for Alaska, but I would guesstimate that if they were, they would reflect a loss ratio down around 50%. I also note that the paid loss ratio for accident year 1985, on a national basis, is down around 4%. Fat city on investment income coming up in 1986, particularly in those states that do not allow pre- and postjudgment interest.

I would suggest that you have your market conduct "rate section" follow-up on this memo - perhaps doing some research work in some of the companies offices. I hope to take a look at Providence Washington Insurance Company of Alaska and Industrial Indemnity Insurance Company of Alaska shortly, as both are overdue for an examination.

I would also suggest that you have your rate people perhaps take a look at 1984 experience for comparative purposes. It might also be interesting to do a policy year review of the same companies for 1984. This information should now be available but it is not reported in the annual statement. It would entail a special statistical call.

All figures reflected in this memo were taken from filed annual statements, but I have no idea how accurate the information is.

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Check Letter
4/29/86

April, 1986

Fact Sheet
Background/Key Findings of Rep. John LaFalce (D-NY)

John LaFalce on March 25 inserted in the Congressional Record a fascinating analysis of the current liability insurance crisis. LaFalce is undoubtedly one of the most informed members of Congress who as far back as 1977 held product liability insurance hearings covering 5 volumes, 75 witnesses on 16 separate days.

Some of LaFalce's findings back then were what we hear today: 500 to 1000% premium increases, companies "going bare", capricious increases bearing no relationship to claims experience.

Other findings were:

-Regarding the meaning of the word "loss": I quickly found out that in the insurance industry appearances can often be deceiving... You and I might think we know what a loss is: It means something that has been lost, rather simple. Not so in ...insurance... The definition of "loss" varies upon the context... If you use the word "loss" ...in finanical reporting to the States it means one thing. If you use the word.. in ratemaking it means something quite different... "Loss" also includes within its definition , reserves that have been set aside for claims that have been reported... and claims that the industry says probably have occurred, but which it has absolutely no knowledge of whatsoever.

- 90% of written product liability premiums were not primarily based on actuarily determined rates. A substantial portion were based on the subjective judgment of the underwriter... Now that's a fact, and a disturbing one.

- Any literature you read circa 1976-77 contains the truism that we had gone from a handful of product liability claims to the point where we had 1 million claims per year...But what was the reality? The best judgment of the Insurance Services Office of the number of product liability claims was from 60,000 to 140,000. The insurance underwriter's perception of reality was inflating reality by anywhere from 700 to 800%.

-In the media we read continually about multimillion dollar settlements and verdicts. The ISO reported in its

testimony that the average payment for bodily injury claims is $13,911. That's a tremendous difference from a million dollars. Not only did statistical gimmickery create a misleading average, but ISO also failed to factor in unsuccessful claims which were closed without any payment at all. If you use the true facts, you would see that the average payment... was not in the millions nor even $13,911. The average payment in reality was $3,592.

- IBNR figures - incurred but not reported- also require close scrutiny. In this area there is no effective way to monitor the insurance industry. When the IRS did study reserves subsequent to the medical malpractice crisis, it discovered the insurance industry was overreserving by approximately 30-45%. The lowest product liability reserving was 32% by Travelers, whereas Crum and Foster was the highest with its IBNR accounting for 71.4% of all its reported losses.

- History really does repeat itself- but this time it has done so with vengeance... The picture is indeed bleak. Unfortunately, based on my previous experience with this issue, I am not confident that state insurance commissioners will be able to adequately handle the problem... Nothing has happened in the intervening period to alter this conclusion that a State-by-State approach to the insurance crisis simply is not adequate, and that a Federal response is warranted.

CAUTIONARY NOTE

John LaFalce is no tool of the trial bar. He has called for limited uniform federal product liability legislation as part of his package of reform. But so much of what he says is good that it is worth getting out his news.

Check seller 4/24/86

A look at the other side of liability woes

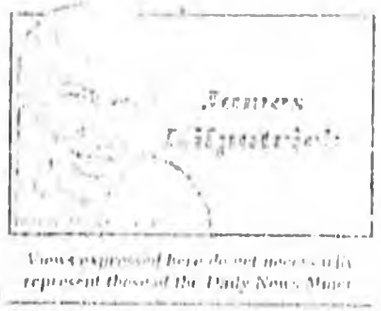
WASHINGTON — In recent months the insurance industry has launched an impressive campaign of public relations. The idea is to justify the industry's role in what is widely described as "the crisis" in liability coverage. There's another side to the story — the lawyers' side. It deserves a fair shake.

The industry contends that in 1984 it suffered an underwriting loss on property/casualty policies of more than $20 billion. Its experience last year was better, but not much better. The industry's position is that two factors have compelled a sharp increase in premiums. Sympathetic juries, overwhelmed by persuasive lawyers, have awarded undeserved millions of dollars in damages. In what is known as "long tail liability," companies face huge outlays in cases involving toxic wastes or time-delayed drugs. The industry is lobbying Congress and state legislatures to put ceilings on damages and to make other changes in the area of "tort reform."

What about all this? The Association of Trial Lawyers of America is fighting back.

The lawyers contend, to begin with, that the insurance lobby has clouded the industry's books with blue smoke. Insurance companies derive their income from two broad sources — premium payments and investments. If one looks only at the operating side, yes, the companies have suffered operating losses. But when account is given to investment income, and to capital gains from the sale of stock, a quite different picture emerges. Over the past 30 years, the lawyers observe, property and casualty assets have grown from $22 billion to $265 billion — a growth that hardly suggests an industry in terrible trouble.

What about these multimillion dollar judgments? The insurance lobby quotes figures from Jury Verdict Research Inc., of Solon, Ohio, indicating an average award in product liability cases in 1984 of $1.07 million and an average award in malpractice cases of $960,000.



Views expressed here do not necessarily represent those of the Daily News Mirror.

The data show 360 verdicts in 1984 alone of more than $1 million.

The lawyers respond that the statistics are seriously flawed. They are not based on a random sample of awards nationwide. They are not confined solely to property/casualty cases. The data do not reflect reductions on appeal. Neither do these "averages" take into account the great majority of claims that are settled out of court. Studies in Wisconsin, Massachusetts and California provide no confirmation for the high averages reported by Jury Verdict Research.

In any event, the trial lawyers contend, the rare multimillion-dollar verdicts are abundantly deserved. These sometimes involve severe permanent paralysis, permanent brain damage, multiple amputations or patently wrongful death. In such cases a surviving plaintiff's life has been ruined; the death of a young and successful breadwinner imposes painful hardship on a family. To "cap" awards for pain and suffering, the lawyers say, is grossly unfair in these instances.

The insurance industry suggests that trial lawyers are more concerned with their high "contingent fees" than with the pain and suffering of their clients. These fees typically range from 30 percent to 50 percent of an award. The lawyers respond by saying that if the defendant wins, the plaintiff's lawyer gets nothing — and doctors win about 75 percent of the malpractice suits brought against them. If lawyers are denied generous compensation when they win a plaintiff's case, [illegible] lawyers will take the clear cases, well heeled defendants, manufacturers and municipalities will be overly protected.

Who's right? My own conclusion is that "the crisis" for whatever reason, is real. Liability insurance in many fields has become virtually unavailable at any affordable cost. The evidence persuaded me, as it persuaded an advisory commission in New York, that the insurance industry's wounds "are largely self inflicted." The industry [illegible] competed for cut-rate business when interest rates were high. Now that interest rates are falling, their investment income is insufficient to offset operating losses. Much tighter state supervision of the insurers will be required.

Some proposals for reform of tort law strike me as desirable, but I put them off for another day. The insurance industry has had its day in the courts of public relations. The trial lawyers deserve a hearing in their own defense.

James Kilpatrick's column, "A Conservative View," is syndicated by Universal Press [illegible]

Check letter 4/29/86

Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

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House of Representatives

SOLUTIONS TO THE LIABILITY INSURANCE CRISIS

Mr. LAFALCE. Mr. Speaker, it is not often that a problem reaches crisis proportions, but thousands of businesses, municipalities and individuals across the country will attest to the existence of an insurance liability crisis. Without insurance, many segments of our society cannot function. Yet, during the past year, premium costs have escalated to the point where liability insurance has become unaffordable to many. And, even those who can afford liability insurance find that they cannot buy it at any price. Unless this crisis, and that is exactly what it is, of affordability and availability is resolved, we will soon find ourselves in a state of economic paralysis.

Crises in the insurance industry are neither new to me, nor surprising. As early as 1978, I stated that "we have seen severe problems with medical malpractice insurance; today we are having difficulties with product liability insurance. Tomorrow, we are likely to have problems in other lines of insurance." Tomorrow is today. The next crisis in the insurance industry has arrived.

Our constituents are demanding relief, and rightfully so. They are caught in an insurance crunch, which leaves them either completely without coverage, or coverage that is obtainable only at astronomical premiums. There is no single solution to a problem of this magnitude. Rather, what is required is a comprehensive multifacted approach which acknowledges the complexity of the problem. The package of reforms that I am introducing today offers precisely such an approach.

During my time today, I would like to address the following topics: my previous involvement with this issue as chairman of a Small Business Subcommittee, the problems within the insurance industry which my subcommittee uncovered, and proposed solutions which I am introducing in this Congress.

A. SUBCOMMITTEE INVESTIGATION INTO THE INSURANCE CRISIS—LATE 1970'S

If we put these issues into a historical perspective, it quickly becomes apparent that what we are facing today is essentially a replay of a similar insurance crisis that occurred a decade ago. Indeed, it was during the fall of 1976 that I first became aware of the problem of product liability insurance, and insurance coverage generally, when I started receiving complaints concerning unbelievably high premium increases from small businesses within my congressional district in western New York.

Several months later, in February 1977, I was elected chairman of the Small Business Subcommittee on Capital, Investment and Business Opportunities. In that capacity, I started receiving complaints similar to that which I had been receiving from my constituents regarding premium increases, only this time not just from western New York, but from across the country. I then decided to initiate a series of hearings regarding the impact that the product liability insurance shortage was having on the small business person. I did so, and to make a long story short, conducted 16 days of hearings, gathering 5 volumes of testimony from over 75 witnesses.

During the course of this investigation, I also worked very closely with the interagency task force on product liability, led by the Department of Commerce, whose chairman was Prof. Victor Schwartz.

My subcommittee heard testimony from trade associations representing all types of businesses, and the story was always the same: Their members were experiencing not 100-percent increases, but very often 500-percent increases, 1,000-percent increases, and even 10,000-percent increases in their premiums. Many companies were simply unable to afford the extraordinary high premiums for product liability insurance, and chose to "go bare," that is, without coverage. If these stories sound familiar, they should.

Invariably, these trade associations claimed that premiums charged were arbitrary, capricious and unfairly high; and that they bore no relationship either to historical experience or to quality control standards. They also proposed "the solution." In a unanimous vote, they stated, "we need tort reform, we must have drastic changes in our tort laws."

Although certain changes in tort law, for example, uniform product liability standards, seemed to make sense, tort reform alone did not seem likely to achieve a solution. The premiums being charged were unfair, arbitrary and capricious, and this situation could not be rectified through tort reform, but rather required an indepth examination of the insurance industry itself.

B. PITFALLS OF THE INSURANCE INDUSTRY

My inquiry took me through the looking glass, so to speak, because I quickly found out that in the insurance industry appearances can often be deceiving. I quickly found out that the vocabulary of the insurance industry differs markedly from the vocabulary that you and I ordinarily use. Their definition or use of a word would often differ from our definition of that same word. For example, the word "losses." You and I might think that we know what a loss is: It means something that has been lost, rather simple. Well, not so within the insurance industry.

In the insurance industry, the definition of "loss" varies depending upon the context in which it is used. If you use the word "loss" in connection within financial reporting to the States, it means one thing. If you use the word "loss" in connection with ratemaking, it

means something quite different. Thus, when the insurance industry for purposes of State financial reporting uses the word "loss," it means that which it paid out in settlement of a given claim or jury verdict. But the industry also means that which it has set aside as reserves for those claims that have been reported to it. In other words, "loss" in this context includes not just what is actually paid out, but estimates of future pay outs as well.

Furthermore, the insurance industry also includes within its definition of "loss," reserves that have been set aside for claims that it says probably have occurred, but of which it has absolutely no knowledge whatsoever. It calls these losses IBNR (incurred but not reported). However, when it uses the word "loss" within the context of ratemaking, it does not include IBNR because it is deemed statistically unreliable—and that's putting it mildly. We'll get back to IBNR a little bit later, but I merely wanted to set the stage for the importance of examining with a critical eye and ear virtually every piece of information you get from the insurance industry.

Gaining an appreciation of insurance industry vocabulary was not all that my subcommittee learned from its exhaustive hearings. We also learned that less than 10 percent of all product liability premium dollars were manually derived—that is, based upon a manual for which there is some actuarial predicate for the rates. This means that in excess of 90 percent of the premium dollars for product liability insurance were not primarily based on actuarially determined rates. Of this 90 percent, a substantial portion were based on the subjective judgment of the individual insurance underwriter. Now that's a fact, and a disturbing one at that.

In determining whether premiums not based primarily on actuarial data are fair or arbitrary and capricious, we have to look at whether the insurance industry's subjective judgment that is both adequately and appropriately informed.

Hopefully, our perception of reality and reality itself are one. Subjective judgments can often be good judgments, informed judgments, even appropriate judgments. If there is a difference, however, between our perception of reality and the reality itself, then the judgment may be erroneous, perhaps arbitrary, even capricious.

One of the most important factors that the underwriter must consider is the frequency of claims—the number of claims that are occurring per exposure unit. Any literature you read circa 1976 and 1977, contains within it the truism that we had gone from a handful of claims in the late 1960's and early 1970's, to the point where we then had 1-million product liability claims per year. Information put out by the Insurance Information Institute and the testimony of many of the trade associations that came before my subcommittee, started out with the fact that there were now 1 million product liability claims per year. That was the perception of reality. But what was reality?

The Insurance Services Office [ISO], a ratemaking and service organization with 4,000 employees, owned by all the major insurance companies—they're able to do this because of the antitrust exemption for the insurance industry under the McCarran-Ferguson Act—made a closed-claim study. It studied approximately 24,000 claims that were closed during an 8½-month period spanning 1976 and 1977. It said that in its judgment this study represented 70 percent of all claims that were closed in the United States during that timeframe. And it was the best judgment of the Insurance Services Office that the range of product liability claims per year was from 60,000 to 140,000. The insurance underwriter's perception of reality was inflating reality by anywhere from 700 to 800 percent.

About 4 months after ISO testified before my subcommittee on this point, two insurance companies—Aetna and Crum Forster—ran advertisements in national journals still using the 1-million figure. However, when you look to the number of claims, you can see that the perception of reality and reality itself differed markedly. And it is on the basis of reality, not anecdotal conjecture, that the insurance industry should set rates and Congress should legislate.

A distinction between reality and the insurance industry's perception of reality regarding the fairness or unfairness of the law also exists. Even though I favor a uniform Federal product liability law because the present law is too murky, I do not subscribe to the view that tort law as presently construed is responsible for escalating premium costs. Indeed, of all claims going through to verdict, in 75 percent of the cases where the law was applied to the facts by a jury, the plaintiff got no recovery. And this was not based on conjecture, but upon the insurance industry's own ISO closed-claim study.

The amount of the award constitutes another factor that goes into the judgmental process. In the national media, we read continually about multimillion dollar settlements and verdicts. Yet, the ISO reported in its testimony before my subcommittee that of all those 24,000 claims that were closed, the average payment for bodily injury claims is $13,911. That's a tremendous difference from millions of dollars, or even hundreds of thousands of dollars. This $13,911 figure did not receive widespread publicity, so few people even knew of it. But even this low figure was, upon very close analysis by my subcommittee, most misleading.

Although the study was a closed-claims one, that $13,911 did not prepresent the average payment that was made. It was a figure that used trended data. That is, what would be paid in the future as if the accident happened today. In determining their trended data, the insurance industry also used an inflation factor of 25 percent per year. The use of these statistical devices greatly inflated the so-called "average" payout figure. Not only did statistical gimmickery create a misleading average, but the ISO also failed to factor in unsuccessful claims which were closed without any payment by the insurer whatsoever.

If you use the true facts, you would see that the average payment for a bodily injury claim was not in the millions, nor even $13,911. In a study that included 70 percent of all the product liability claims closed in the United States, 24,000 during an 8½-month period, the average payment for bodily injury claims was in reality, $3,592. If you compared the amount that was actually paid out in claims with the total amount of premiums paid in to purchase product liability insurance policies, you would find an excessively large spread in favor of the industry.

The insurance industry's IBNR figures—losses incurred out not reported—also require close scrutiny. In this area, there is no effective way to monitor the insurance industry. Formerly, the IRS was able to do at least some monitoring of the reserves since they were audited on a line-by-line basis. When, however, the IRS did this subsequent to the medical malpractice crisis, it discovered that the insurance industry was overreserving its medical malpractice line by approximately 30–40 percent.

Regrettably, the IRS procedure has now changed. It no longer audits on a line-by-line basis so it can make no determination as to the validity of reserves for any given line—including that with the product liability experience, an area which no State insurance department in the entire United States monitors. Finally, in a detailed questionnaire that I sent out to the insurance industry, I discovered wide variations in IBNR among insurers. The lowest percentage of losses attributable to IBNR was 32 percent by Travelers, whereas Crumm and Foster was the highest, with its IBNR accounting for 71.4 percent of all its reported losses.

In short, the frequency of claims, the size of the payouts, the misleading use of statistics and various accounting devices which overstate actual loss experience all indicated that the premiums you and I were being charged were unfair, arbitrary and capricious and should have been lowered.

C. THE INSURANCE CRISIS TODAY

History really does repeat itself—but this time it has done so with a vengeance. The crisis which I addressed years ago was primarily centered on problems identified with product liability insurance. Today, those problems remain, but the crisis has now spread throughout the liability insurance industry.

The parameters of the 1986 crisis are boundless. Far more than manufacturers are affected this time. The unavailability or unaffordability of insurance coverage has permeated every sector of society. It determines whether our children can participate in after-school activities; whether we will have day care centers open to care for the young of working parents; and even whether doctors will be able to deliver babies.

This litany does not even come close to describing the disaster that this situation has created for small businesses across America. Because these companies are forced to "go bare," they are extremely vulnerable to big lawsuits or jury awards. Large corporations are also experiencing dramatic increases in premium costs or outright cancellation of coverage. Service sector businesses such as restaurants, bars and ski resorts are also feeling the insurance crunch.

Across the country, businesses of all sizes are facing premium increases ranging from 25 percent to more than 1000 percent for property and casualty insurance—if they can get any coverage at all. Experts predict that the escalating crisis in the availability of insurance will considerably worsen in the months ahead.

Surveys of members of small business organizations reveal high percentages of business owners who have had their policies canceled or have been refused coverage—30 percent of NSB members. Ninety-two percent of the companies surveyed which were able to renew their policies had their rates increased. All this despite the fact that 81 percent of the respondents have never had a case against them.

The problem is indeed basic. Unfortunately, based on my previous experience with this issue, I am not confident that State insurance commissioners will be able to adequately handle the problem. Generally, State regulatory schemes focus principally on assuring the solvency of insurers; they are not designed to deal with overpricing, or the unavailability of insurance for consumers or businesses. In fact, in 1979, officials from the General Accounting Office testified before my subcommittee, citing their study of the State regulation of the insurance industry. The study found "serious shortcomings in state laws and regulatory activities with respect to protecting the interest of insurance consumers." Nothing has happened in the intervening period to alter this conclusion that a State-by-State approach to the insurance crisis simply is not adequate, and that a Federal response is warranted.

B. PROPOSED SOLUTIONS

The package of bills which I am introducing today is aimed at the many components of the insurance crisis. This comprehensive approach, much of which is based on reforms which I advocated 8 years ago, will serve to stimulate debate as to what Federal response is required to aid the businesses and individuals that are so desperately in need of assistance.

1. FEDERAL INSURANCE COMMISSION

First, to address the inadequacies of State regulatory schemes in dealing effectively with this issue, many of which were revealed by the GAO several years ago, I have proposed the establishment of an agency within the Federal Government with expertise in insurance that can adequately guard against future difficulties. A Federal Insurance Commission will, in general, defer to continued State regulation of the insurance industry, but would retain the power and duty to act in those instances where State regulation is deficient. The Commission will be structured along lines similar to the Federal Trade Commission, and will be given the broad grant of powers needed to perform its role.

Under this legislation, the FIC would be able to prevent persons from engaging in unfair insurance practices. More specifically, the Commission will have the authority to issue cease and desist orders to those insurance companies whose activities are not in the public interest and not necessary to promote their solvency. These powers will prevent insurers from charging excessive premiums and from canceling insurance contracts without justification. As such, the Commission will be able to address directly the principal factors that have contributed to the current crisis of unaffordability and unavailability.

2. REEXAMINATION OF THE MCCARRAN-FERGUSON ACT

Second, I am also calling for a reexamination of the McCarran-Ferguson Act, which exempts the insurance industry from Federal anti trust laws and oversight. The 1945 act was hastily conceived and was enacted with scant legislative history. Thus, the McCarran-Ferguson Act has been the source of much justified criticism. I am introducing five alternative bills which merit careful scrutiny. The bills would: First, repeal the McCarran-Ferguson Act; second, amend the act to require effective State regulation to qualify for an exemption from Federal oversight; third, clarify that the exemption from Federal regulation pertains only to insurance matters—not to extraneous matters such as advertising, investment, and so forth; fourth, eliminate those portions of the McCarran-Ferguson Act that exempt the insurance industry from Federal oversight, but retain the part of the act that permits State taxation of the industry; and fifth, define the business of insurance.

The broad-based exemption from the antitrust laws accorded the insurance industry has long been subject to serious criticism. In 1978 and 1979, the National Commission for the Review of the Antitrust Laws and Procedures concluded that the immunity granted by the McCarran-Ferguson Act is overly broad and should be repealed.

As the Commission noted, "where members of a competitively structured industry are allowed collectively published industrywide rates—often without effective State supervision—in an regulatory environment that encourages uniform pricing, insurance premiums are likely to be higher than under a system that relies more heavily on independent pricing decisions." My proposed legislation will bring the antitrust laws to bear upon the insurance industry, thereby permitting competition to drive down the exhorbitant premiums which have so contributed to the current crisis.

3. FEDERAL PRODUCT LIABILITY ACT

Third, equitable tort reform will also promote a resolution of the insurance crisis. However, I am fearful that this cannot be brought about at the State level, where any changes are likely to be overly restrictive of the rights of injured persons. My proposal for Federal Product Liability Law would achieve equity, but not at the expense of an injured party, by creating a much needed single cause of action.

Right now a plaintiff can proceed on theories of breach of warranty, negligence, strict liability, absolute liability, and any of a number of different defenses might or might not be applicable. A single cause of action distinguishes between liability arising out of a defect in construction—that is, where a product is not manufactured in accordance with the manufacturer's own specifications—and liability arising out of other unsafe conditions or situations where appropriate warning or instructions were allegedly not given.

In all three classes, liability will result for bodily injury proximately caused by a defect. In the latter two cases, however, where liability arises from unsafe conditions or the failure to provide appropriate warnings, the trier of fact will be required to balance the foreseeability and seriousness of the injuries proximately caused, with the utility of the product to society, and the cost that would have been incurred by the manufacturer to have avoided the risk.

My bill also calls for a statute of limitation that would expire 3 years after the time the claimant discovered or should have discovered harm. Some industry spokesmen have agrued that the statute should run from the date of manufacture or sale, rather than the date of injury. In my judgment, such an approach would be harsh and unreasonable. However, in order to alleviate what is a real problem, I have proposed an amendment to the statute of limitations that would provide that 10 years after the product has been in use, the burden of proving fault should rest exclusively on the plaintiff, without the benefit of any presumptions such as the failure to comply with ordinances or statutes, and such doctrines as res ipsa loquitor.

Finally, my proposal would clarify that the state of the art at the time of manufacture is relevant to the unsafe condition of the product. Moreover, we would clarify that the court would have the power to appoint its own expert witnesses. It would also provide for pure comparative responsibility. Responsibility would be apportioned among plaintiff and all defendants. These proposed reforms will provide a needed degree of rationality, coherence and balance to our tort laws. They recognize the need to provide uniformity and certainty to those manufacturers whose products are sold not locally, but in interstate commerce. They do not, however, unfairly restrict the rights of individuals to seek redress through the courts for injuries caused by the negligent conduct of a manufacturer.

4. EXPANSION OF THE PRODUCT LIABILITY RISK RETENTION ACT

Fourth, in 1981, President Reagan signed into law the Product Liability Risk Retention Act of 1981, a bill based on one I had introduced in past Congresses. The stated purposes of this law were to ensure the prompt payment of legally valid claims, to promote competition among providers to product liability coverage, and to reduce the outflow of capital to offshore captive insurance companies. One additional feature of the act was that it had the effect of preempting State laws which prohibited selling product liability insurance to fictitious groups. Removing this impediment greatly facilitated the ability of groups of manufacturers to obtain insurance in the commercial marketplace.

In light of our current liability insurance crisis, we need to enact amendments to this law which will expand its coverage to general liability insurance rather than exclusively product liability, and I am introducing a bill that will do just that.

5. CONCLUSION

Mr. Speaker, the liability insurance crisis will continue to haunt us if we don't act responsibly and take action now. The insurance crisis which I investigated during the late 1970's has returned, and will continue coming back unless something is done to bring effective accountability to the insurance industry.

My proposed reforms are a starting point. For example, the Federal Insurance Commission will ensure, for the first time, effective regulation of the insurance industry. Repeal of or amendments to the McCarran-Ferguson Act will stimulate much needed competition in the industry. A uniform Federal product liability statute along the lines I have suggested will provide predictability and certainty to business, while not unfairly infringing upon the rights of injured individuals. Finally, expansion of the Product Liability Risk Retention Act to cover all lines of liability insurance will create new options for those businesses that are unable to obtain insurance in the current market.

I hope that my colleagues have the courage necessary to stand up for their constituents in the face of admittedly heavy opposition. I invite each of you to join with me in a search for lasting solutions to the liability insurance crisis.

Congress must be willing to admit that this problem is beyond the ability of the States to handle, and initiate debate on the subject.

Anchorage Daily News Thursday, May 1, 1986

Need for tort reform disputed

By HAL BERNTON
Daily News business reporter

Alaska's 13 largest liability insurers appeared — on the average — to do "quite well" financially last year, according to Donald DeMuth, chief financial examiner for the state Division of Insurance.

The 13 insurance companies' ratio of 1985 losses to premiums written averaged 62.3 percent, wrote DeMuth, in a recent memo to John George, director of the state Division of Insurance. According to DeMuth, loss ratios of less than 70 percent normally earn profits for insurance companies.

DeMuth's study indicates at least eight of the 13 insurance companies made a profit in Alaska in a year that state insurance industry officials said they were hard hit by high settlement costs and increased claims.

The study — the result of a week's worth of research by DeMuth — has become a political football in the superheated legislative debate over what to do about skyrocketing insurance premiums.

"Overall, in spite of all the tears that the insurance industry is shedding, it appears to me that the insurance industry is doing quite well on this (liability) line," DeMuth wrote

The Alaska Academy of Trial Lawyers claims DeMuth's findings mean the insurance industry doesn't need any legislation to improve profits through reform of the state's tort system, a web of statutes and case law that help juries determine damage awards in personal injury cases.

"I think we are being subjected to a massive campaign of false propaganda," said Bernie Kelly, a spokesman for the trial lawyer academy.

But insurance officials, who have been lobbying the legislature to pass a tort reform package, say there are real problems with state liability coverage.

Dick Block, president of Alaska National Insurance Co., said profits on liability policies resulted from jacking up premiums and eliminating a lot of high-risk coverage, such as policies written for day care centers and bars.

"We may have finally fixed the problem from the insurance companies' view by getting premiums up and writing fewer policies," Block said. "But then you have to ask, 'Is the public happy with that?' "

Block said tort reform is needed to bring policy costs down and extend coverage to high-risk groups.

DeMuth's study covered state-

See Page D-2, INSURANCE

Grain

SEC charges company with stock fraud

By GARY LANGER
The Associated Press

NEW YORK — A purported high-technology weapons manufacturer claimed in national advertisements that it had developed a self-cooling beverage can, but the claim — and the company — were created to defraud investors, federal authorities charged Wednesday.

In a complaint filed in U.S. District Court, the Securities and Exchange Commission alleged that Laser Arms Corp. and a principal of the firm, Marshall Zolp, drew unwary investors with a phalanx of false claims.

Zolp sold at least 940,000 shares of Laser Arms common stock for at least $1.5 million from January until the SEC halted trading last week, the SEC said, but its officials had no estimate of the total shares sold.

"I know he sold through brokerage throughout the Gladwin

law violator" and a fugitive from state charges in Las Vegas of possessing a stolen vehicle and other property. A receptionist at the Laser Arms office in Manhattan said by telephone that neither Zolp nor anyone else was available to comment.

U.S. District Judge William C. Conner issued a temporary order that Laser Arms halt business pending a hearing May 9, and instructed it to provide details on its finances, Goins said in a telephone interview.

The SEC charged that Laser Arms issued a forged auditor's report and other false documents, including a report to stockholders showing assets of $6.9 million and predicting an annual income in "the nine figure range."

That report is "entirely fictitious," the SEC complaint said, and the income prediction "lacks any reasonable basis, in that, among other things, Laser Arms does not have any ongoing business."

As part of the alleged fraud, the SEC charged, Zolp issued a news release claiming that Laser Arms had been in the high-technology weapons business since 1954, had 2,700 shareholders, and was announcing a new product, a self-cooling beverage can.

Zolp repeated the claims in half-page advertisements in the Wall Street Journal on April 7 and April 14, adding an assertion that Laser Arms had 17 patents on the self-cooling can, the SEC charged.

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REPRESENTATIVE MIKE M MILLER

POUCH A

JUNEAU AK

BUSINESS WEEK 4-21-86:

"EXPLOSION IN LAWSUITS A MYTH."

"RATE HIKES RESULT FROM INSURANCE INDUSTRY MISMANAGEMENT."

P DENNIS MALONEY, ATTORNEY

405 WEST 36TH AVE

ANCHORAGE AK 99503

INSURANCE: Tort reform

Continued from Page D-1

regulated companies that wrote policies for professionals, cities, day care centers and non-profit boards. It excluded aircraft and medical malpractice coverage, two areas where coverage has been high-priced and hard to get.

His study also found that liability insurance loss ratios in Alaska were about 20 percent lower than the national average, suggesting that insurance companies writing policies in Alaska do better than average financially.

But George, state insurance director, doesn't think the study means all is well with state insurers.

An insurance company needs a loss ratio of less than 60 percent — not the 70 percent level cited by DeMuth — to make a profit in Alaska, he said. By that yardstick, most of the 13 companies are not making a profit on Alaska liability policies.

Kelly, of the trial lawyers, accused George of being an apologist for the insurance companies.

"George's attitude shows why insurance companies are getting away with no regulation. He's relying on insurance company party lines, rather than scrutinizing their claims."

But George said, "It's totally absurd that anyone would pick up on this (memo) and say insurance companies are doing fine. I think this shows they aren't."

Anch Daily News Mar 26, 1986

Insurance regulation advised

business p

By RANDOLPH E. SCHMID
The Associated Press

WASHINGTON — The head of the nation's trial lawyers called Tuesday for ending the antitrust exemptions of insurance companies, and suggested federal regulation for at least parts of that industry.

Peter Perlman, president of the Association of Trial Lawyers of America, said insurance executives' claims that the industry is being threatened by huge settlements are being used in an effort to raise rates and limit the rights of individuals.

"Do we protect the insurance industry or do we protect the rights of innocent victims in our society," the Lexington, Ky., lawyer asked at a National Press Club breakfast.

Sharp rate increases and policy cancellations have led to sometimes acrimonious debate in recent months involving insurers, lawyers, consumer groups and organizations representing professionals, municipalities, industries and others seeking liability insurance.

The insurance industry, citing financial losses, has proposed legal limits on liability verdicts and other restrictions on suits, suggestions which have drawn criticism from consumers.

Perlman reiterated assertions by Robert Hunter of the National Insurance Consumer Organization that the industry actually is making a profit. But he said insurance companies became involved in a bidding war for premiums to raise investment funds when interest rates were high and, now that rates have fallen, are making less money and thus want to raise rates.

The industry, on the other hand, contends that it is crippled by exhorbitant jury settlements and excessive litigation.

Williams

FAMILIES: Life styles

Continued from Page C-6

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COMMENTARY

BY WILLIAM B. GLABERSON AND CHRISTOPHER FARRELL

THE EXPLOSION IN LIABILITY LAWSUITS IS NOTHING BUT A MYTH

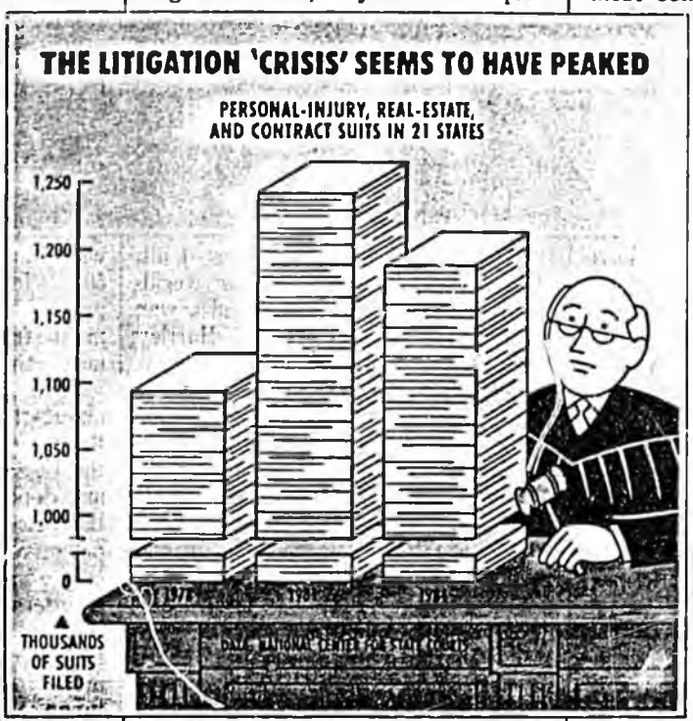
You know the story about the obese cardiac patient and the innocent lawn mower. News accounts say he cleared a bundle of money from Sears by slyly claiming he suffered a heart attack because it took too much energy to yank a starter cord. And what about the guy who collected $500,000 after he was injured using his mower as a hedge-trimmer? More examples of injury-case outrages. Right?

Not so fast. Such stories are part of a growing body of folklore about "out-of-control" courts. Critics of America's liability system use the tales to prove the necessity of radical changes in tort law, the rules that govern injury claims. Behind the anecdotes, however, the hard, undramatic data don't make the case. And startling new evidence suggests that the "lawsuit crisis" may not even exist.

Consider the stories above. The foolish hedge-trimmer was a locker-room invention, concedes leading tort-reform lobbyist Victor E. Schwartz. And most versions of the Sears lawn-mower case don't tell you that the gardener, who did collect a substantial sum, was only 32. He wasn't fat. He wasn't a cardiac patient. And both Sears and the man's lawyer agree that the lawn mower's starter mechanism wasn't manufactured properly. Unfortunately, it took 15 pulls and a massive heart attack before he realized that.

MAJOR ALLY. Twisted tales like these, however, are repeated so often that they are seldom questioned. Of course, in a system that deals with hundreds of thousands of cases every year, you can find an anecdote to support any argument. But everyone seems convinced that "deep pockets" such as Sears, Roebuck & Co. have become helpless targets. The insurance industry has fostered those misperceptions with a phenomenally successful campaign that blames the "lawsuit crisis" for shocking premium increases and a paralyzing insurance shortage. The rate hikes, however, result largely from the insurance industry's own mismanagement (BW—Mar. 10). Even so, the drive for drastic change in the tort system has recently won its most important ally: President Reagan has endorsed federal tort reform.

With the debate moving to a new level, it's crucial to look at the facts. Fundamental to the case against the tort system are five key myths that, together, seem to argue for reform. When examined, like many of the outrageous stories, they don't hold up.



■ The Myth of the 758% Problem. For years, business and insurance groups have been complaining that the sheer number of product-liability suits is ballooning out of control. The evidence? Turn to page 46 of the just-issued report by the Justice Dept.'s Tort Policy Working Group, chaired by Assistant Attorney General Richard K. Willard. There, the umpteenth time, is a graph showing a 758% explosion in product-liability cases over the past decade. The graph, however, shows filings only in federal courts. Partisans on all sides concede that only a tiny percentage of liability cases are litigated there. But the Willard report repeats the pervasive misconception that "there is no reason to believe that the state courts have not witnessed a similar dramatic increase in the number of product-liability claims."

That assumption is incorrect. Long before the Willard study, there was evidence that the increase in state liability cases is just a small fraction of that at the federal level. In fact, a soon-to-be-published study by the independent National Center for State Courts indicates that concern about state-court tort cases is vastly overstated. This most complete study reveals that tort filings were up only 19% in a six-year period ending in 1984—just two percentage points higher than the population growth rate in the 14 states that keep track of tort filings. The center's new data update a previous study often cited by tort reformers.

■ The Myth of the Litigation Explosion. It has become axiomatic that liability abuses are symptoms of a broader, mushrooming crisis. America, goes the refrain, is the most litigious society on earth, and court cases of all types are being filed at a frenzied rate. Instead, the new National Center study will reveal that civil cases stemming from business disputes have actually declined by more than 10% since 1981 (chart). The National Center's experts conclude that the crisis, if it ever existed, is over.

That surprising conclusion supports a revisionist thesis now being advanced by a few experts. University of Wisconsin Law Professor Marc S. Galanter, for example, argues that Americans are not uniquely driven to sue. The way he reads the existing data, Americans don't litigate any more than people in Canada's Ontario province, England, Australia, Denmark, or New Zealand—and they sue even less often than Yugoslavians.

■ The Myth of the Plaintiff Laughing All the Way to the Bank. Another notion suggests that all you have to do is stub your toe, sue, and you'll walk away with a million. It's true that there are

PHIL SCHEUER

TIN: HOW SHEARSON WAS LEFT HOLDING THE BAG

When the international tin cartel finally fell apart last month, everyone thought that London's old-time metals dealers would be hurt worst. As it's turning out, though, the biggest loser among brokers appears to be Shearson Lehman Brothers, one of Wall Street's biggest securities and commodities dealers. The American Express Co. unit isn't taking its tin losses lightly. Shearson is suing all the members of the London Metals Exchange and is seeking damages of more than $100 million from two LME brokers, including a subsidiary of Drexel Burnham Lambert Inc., a rival Wall Street powerhouse.

The tin market came crashing down last fall after the International Tin Council failed to make good on obligations to pay for 80,000 tons of tin that it had contracted to buy. The ITC, which represents 22 tin-producing nations, had been supporting the price of tin for years by buying large quantities from LME dealers. But after the ITC ran out of money to finance its purchases, tin trading on the LME was suspended, and the price of the metal plummeted from $13,080 to $5,880 per metric ton.

In an attempt to minimize the damage to its members by spreading the losses, the LME decided in early March to settle all open tin contracts at a fixed price of $9,188 per metric ton. Shearson was the only LME member that refused to accept the LME's settlement price and the method of settlement, by which dealers that contracted to buy tin are required to make a cash payment to sellers but not to take possession of the metal.

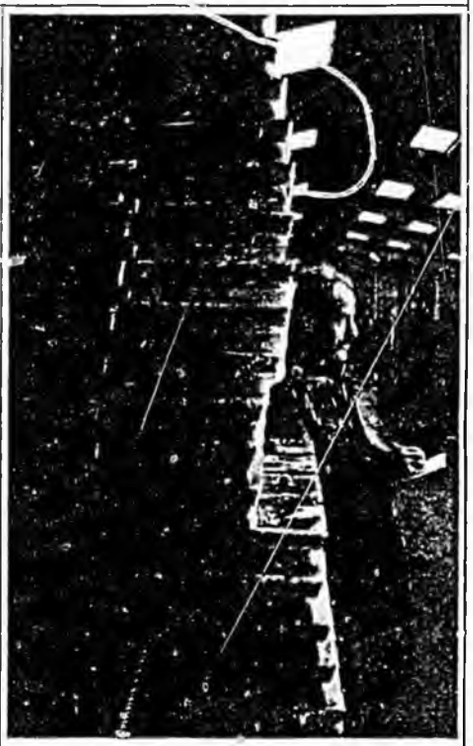
BIG LENDER. A few London metals brokers have announced write-offs amounting to tens of millions of dollars. Four companies have ceased trading on the LME. But Shearson, which did more trading with the ITC than other dealers, was left holding the most tin. London sources estimate Shearson's pretax losses at $50 million to $100 million. American Express says it is setting up a reserve to cover Shearson's tin losses, but it won't specify the amount.

Sources say that Shearson was probably the ITC's biggest supporter among tin dealers. It not only bought and sold tin on the council's behalf but also helped finance its price-support operation. For one thing, Shearson lent money directly to the ITC, accepting tin as collateral. Shearson also used its own money to finance metal purchases for the council and charged only interest and broker fees. "The system was marvelous, and we'd still be in business if we could pay the interest," says the ITC's head trader, Pieter deKoning.

The ITC also borrowed from other brokers and banks. Much of the tin the council obtained did not have to be registered as official LME stock because it was stored in non-LME warehouses and thus was not immediately available for sale on the exchange. In effect, it was "hidden" from the marketplace, obscuring the extent of the world oversupply. "The purpose of borrowing tin was to take away tin from the market," deKoning says. LME sources say deKoning was able to hide more than 40,000 metric tons—about 30% of annual consumption.

In a transaction cited in its suit, Shearson says that last summer, acting on the ITC's behalf, it bought on a cash basis more than 8,000 tons from Drexel subsidiary Maclaine, Watson & Co. and more than 2,000 tons from J. H. Rayner Ltd. Shearson then contracted to sell identical tonnages back to these same dealers in three months. But before the three months expired, the market collapsed. Says one broker: "Shearson was left holding the [tin] when it should have gone back to the ITC through Maclaine."

Shearson insists that the contracts be honored at the price agreed on before tin



A LONDON WAREHOUSE: THE SIZE OF THE TIN SURPLUS WAS HIDDEN FROM THE MARKET

CHRISTOPHER PELUTZ

...e million-dollar awards than ever. But in a nation of 240 million people, there have been only 1,642 awards of $1 million or more in the last 14 years. And what about the gleeful winners? According to Jury Verdict Research Inc., the Ohio concern that tracks big awards, they were hardly in shape to enjoy the "spoils." In more than two-thirds of the cases, they suffered permanent paralysis, brain damage, amputations, or death.

■ The Myth of the Tip of the Iceberg. Would-be reformers argue that million-dollar awards are encouraging excessive awards throughout the tort system. But the big-verdict headlines are deceiving. Many are reversed by appeals courts. And the two most-cited surveys show that when mega-awards are left out, the rate of increase in damage awards is slow. Studies, moreover, show that plaintiffs win only about half of all cases. Galanter says

> The data just don't justify soaring insurance rates and court reform

society has come to expect that people who suffer catastrophic injuries should be fully compensated. But he says that shift, which has occurred over the past century, is having little effect on the bulk of the personal-injury system.

■ The Myth of the Good Old Days. Reformist gospel declares that increasingly liberal courts are developing "no-fault" rules that hit companies with unfair liabilities. The Willard group singles out this change as "one of the most disturbing aspects of the current tort system." In reality, there's very little reason for companies to be nostalgic. Rand Corp., whose data are lauded by the Willard group, concludes that corporate defendants probably have about as much chance of winning under "no-fault" rules as under the old negligence standard.

Despite these myths, however, the world business lives in is clearly changing. Today's technology creates products that are more widely distributed—and more potentially harmful—than ever. Toxic torts, such as asbestos and chemical exposure, are creating victims in unprecedented numbers. And society's changing expectations have pushed the courts to broaden their scope. All this, unfortunately, gives the trial lawyers, the new entrepreneurs of misery, windfall profits. It also means that facts—not folklore—are needed in searching for solutions.

The Liability Insurance Crisis

Insurers Put the Squeeze on Consumers

Burkey Beiser

J. Robert Hunter and
Thomas C. Borzilleri

There is a national liability insurance crisis. In state after state, spectacular premium increases and cancellations have become the order of the day.

Responding to the insurance industry's arguments, many states have moved to limit victims' rights to recover damages under the rubric "tort reform." In the view of the authors, however, the problem lies less with the legal system than with the way the insurance industry conducts its business. Cash flow underwriting in high-interest-rate periods later results in massive increases and cancellations in lower-interest-rate periods.

Increased regulatory vigilance and more careful attention to insurer expenses and cost allocation methods would reduce—if not eliminate—the problem and would enhance whatever tort reforms states ultimately find appropriate.

In state after state, doctors, lawyers, accountants, hospitals, day-care centers, school districts, directors and officers of corporations, municipal, county, and state governments, and a wide variety of other economic enterprises report massive premium increases, midterm changes in contract terms, policy renewal rejections, and an inability to find liability insurance at any price.

State governments have addressed this problem by imposing emergency rules and creating commissions to investigate the issue and propose solutions. To prevent further disruption to New Jersey's economy, Governor Kean was forced to impose this past summer an emergency rule to prohibit midterm cancellations and withdrawals from the market and to require prenotification of premium increases and cancellations. A similar emergency rule was also imposed in South Carolina.

The crisis in medical negligence insurance in Maryland was sufficiently acute for Governor Hughes to create a task force in July 1985 charged with making recommendations to the Governor within six months. A similar task force recently completed recommendations in New Jersey.

Unfortunately, the debate and policy proposals to alleviate the liability insurance crisis have focused on only one aspect of the problem: possible deficiencies in the tort system. In particular, the "quick-fix" that seems to be gaining favor emphasizes limitations on victims' rights to recover damages. Liability limits, caps on noneconomic damages, changes in the statute of limitations for lawsuits, and other changes have become the centerpieces of the recommendations of many state task forces.

Ignored in this "rush to judgment" is a part of the problem far more important than anything happening in the nation's courtrooms: The way the insurance industry routinely conducts business. Our initial analysis of the problem leads us to conclude that if industry practices could be modified by enhanced regulatory vigilance, the part of the problem to be solved by tort reform would be small indeed. We believe the liability insurance crisis is primarily an insurance problem.

Understanding the Problem

The primary reason this crisis has so suddenly materialized is that the insurance industry practices "cash-flow underwriting." When interest rates and investment returns are high, insurance companies accept riskier exposures to acquire more investable premium and loss reserves. During the recent high-interest-rate period, company earnings were high because investment income offset any underwriting losses associated with riskier lines of insurance. Consumers found insurance easily, and relatively low premiums were available.

Ultimately, of course, losses had to be paid. When those losses corresponded with the declining interest rates and investment yields of the past two years, companies attempted to both raise premiums and shed themselves of riskier business lines to maintain their earnings. If you accept some strange accounting practices, underwriting losses now dominate investment earnings and spectacularly higher premiums have become the order of the day. Business after business finds itself somehow "uninsurable," even though it has had few, if any, claims against it.

The result of this cyclical behavior is instability in the market: When interest rates and investment income are high, companies offer riskier coverages at discount prices, but when the consequent losses must be paid and interest rates and investment income drop, they increase premiums dramatically and cancel certain exposures regardless of price.

We see today's crisis as a repeat performance of the liability insurance crisis of the mid-1970s, a crisis that followed a similar period of very high interest rates and rapid decline. Just as is the case today, the industry pointed to the courts as the primary culprit and secured a number of "tort reforms" in state legislatures. Yet, 10 years later, the problem is back damaging state economies, reducing the supply of necessary business and governmental services, and causing economic disruption in state after state.

Solutions

Our analysis leads us to conclude that tort reform is no panacea for the liability insurance crisis. Improved regulatory control over insurer costs and rates is what is needed. Significant changes in interest rates are a routine part of our economic landscape. Consequently, if real under-

J. Robert Hunter, president of the National Insurance Consumer Organization (NICO), was Federal Insurance Administrator in both the Carter and Ford administrations. Mr. Hunter created NICO in 1980 to promote the interests of insurance buyers.

Thomas C. Borzilleri, Ph.D., an economist and senior consultant with the Washington, D.C., firm of J.W. Wilson & Associates, directs the firm's insurance studies. Dr. Borzilleri was formerly chief economist to the American Association of Retired Persons.

writing risks, even if they are reduced by tort reform, are neglected or ignored by insurance carriers in high-interest-rate periods, subsequent periods will continue to bring instability to the pricing and availability of insurance coverage. In fact, in Ontario, Canada, where the legal system already has the sort of caps and limits on victims' rights insurers seek in the United States, the same insurance crisis exists: Insurance is often unavailable or available only at steep rates.

In setting rates, property/casualty insurers seldom document their claimed operating expenses. Rather, they simply allocate these costs between insurance lines and states in proportion to premiums. Moreover, there is little if any regulatory attention to the appropriateness of specific expense items.

States should more carefully examine both the level and allocation of insurance company expenses as a part of the rate review and approval process. Are the expenses (other than losses) insurers seek to recover through higher rates reasonable and are they directly associated with the line of liability insurance at issue? Or are they excessive? Or do they include expenses that should be attributed to other insurance lines or to other states?

Finally, it is unclear just how dominant increased litigiousness and higher claims have actually been relative to the regulatory issues concerning cost determination and rate control. While some insurance companies may have experienced major losses in liability insurance lines, it is not clear that these losses warrant the large rate increases and drastic exposure limitations insurers currently seek.

It is possible the industry is simply "going out on strike," exaggerating its financial position to pressure legislators into creating a lower risk environment for their operations. While the companies argue that the tort system has created extreme financial distress that necessitates major premium increases and coverage termination, we point to the good performance of property/casualty insurance company stock over the last decade, particularly in 1985. Last year, the increase in Best's Index of property/casualty stocks more than doubled the increase in the Dow-Jones Industrial Average, a performance hardly indicative of a troubled industry. This performance implies that Wall Street sees the industry's problem as a transitory phenomenon rather than a basic one that is rooted in a new and even riskier legal environment.

Additional evidence can be found in the companies' operating statistics for 1985. The property-casualty industry claims to have lost $5.5 billion in 1985, earning $19.7 billion in investment income while running $25.2 billion in underwriting losses. With losses of this magnitude, it argues, the 21 percent increase in 1985 premiums, an additional $25 billion, was more than justified. More careful analysis, however, reveals a different picture.

Included in the $5.5 billion loss is $2.1 billion in dividends to policyholders, a purely voluntary outlay unrelated to what the public generally considers business losses. In addition, the industry received $1.9 billion in tax refunds and between $5.3 and $6.5 billion in realized and unrealized capital gains. Hence, depending on

the treatment accorded unrealized capital gains and dividends, the $5.5 billion loss turns into profits of between $1.7 and $5.0 billion. Do these figures indicate an industry in need of protection from the tort system?

A Final Note

The primary cause of the liability insurance crisis is not to be found in our legal system; tort reform is not all that will be required to solve it. Our analysis indicates that attention must be given to both the regulatory and the tort side of the problem in order to craft a sensible response to the problem.

Before states further reduce victims' rights with liability limits, caps, and other quick fixes, they should identify and correct the part of the problem caused by insurance industry practice. They should first start by getting the insurers' closed claims to see how victims are faring under the current system and then see how much money, if any, consumers would save if caps and other so-called reforms were enacted. ■

Forum

REFORM INSURANCE, NOT LIABILITY LAW

Taming the Latest Insurance 'Crisis'

By ROBERT HUNTER

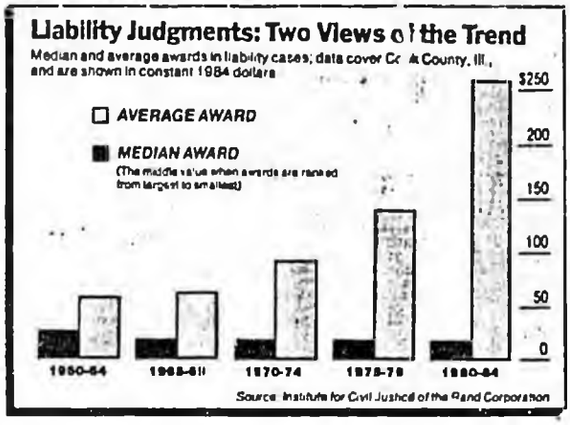
THE latest liability insurance "crisis," like its predecessors, is widely attributed to overly generous juries and court decisions expanding manufacturers' liability. As in the preceding "crisis," in 1975, little is said about the fundamental cause — the sharp ups and downs of the insurance industry's profit cycle.

The gradual expansion of legal liability and the profit cycle are distinct phenomena and should be treated separately. The former has not caused rates to increase dramatically; the profit cycle has. Thus, limiting liability and restricting jury awards will not avert future insurance squeezes, but flattening the insurance cycle will.

Consider the roller-coaster ride the insurance industry has taken us for in the last decade:

- 1975. The bottom. The industry earned 4 percent on equity, well below the average for all industry.
- 1976 to 1977. The ascent. The cost of insurance skyrockets by 300 percent or more for many doctors, manufacturers and others, as insurance companies' profits leap by more than 500 percent.
- 1979 to 1984. The fall. The high profits attract a flood of new capital. Insurers begin cutting prices and insuring poor risks, so as to obtain as many premium dollars as possible to invest at the high interest rates that prevail. Not surprisingly, the industry's profits decline, to a 2 percent return on equity in 1984.
- 1985 to 1986. A new ascent. As in 1976 and 1977, doctors, manufacturers and municipalities, this time joined by day-care centers and nurse midwives, find insurance costs rising by 300 percent and more — if they can get insurance at all. As the industry [illegible] premiums by $25 billion [illegible] reducing coverage, the stock prices of liability insurance companies rise by 50 percent, twice the rise of the Dow Jones industrial average. During the first quarter of 1986, insurance stocks rise another 22 percent.

Today, as in 1976, the insurance industry blames the legal system for the huge premiums. Their implausible claim is that judges and juries became generous in 1976, stingy for the next eight years and inexplicably generous again in 1985.



Actually, liability awards are remarkably consistent. In constant dollars, the median award has hovered around $20,000 over the last 25 years, according to the Rand Corporation's Institute for Civil Justice, although the average award has risen appreciably, reflecting the impact of a few huge settlements.

Legislated limits on liability awards have proved ineffective. Many cities and towns in Pennsylvania, for example, cannot get insurance even though the legislature virtually immunized them from liability the last time insurance rates shot up. The reason, simply, is that insurance rates and availability are determined by the profit cycle, not by juries.

Perhaps most significant, insurance companies have consistently refused to reduce their rates in exchange for legal limits on liability. If their problems were traceable to the civil justice system, then they should jump at the offer.

Certainly, the legal system is not perfect. Reforms, such as limiting fees for both plaintiff and defense lawyers and penalizing frivolous suits and frivolous defense delays, would enhance efficiency. But it would be unfair and nonsensical to limit compensation for injuries without proving that such a reform would work and providing an alternative.

Our experience with no-fault auto insurance is instructive. No-fault systems were enacted only after exhaustive studies showed that people with relatively minor injuries were overcompensated while people with severe injuries were undercompensated. Thus, a no-fault system for small claims made sense.

In contrast, the package of "reforms" sought by the insurers (and recently endorsed by President Reagan) not only involves no trade-offs — it takes away rights of injured people without giving them anything back — but is unsupported by any data about how victims fare under the current system, what drives up costs and how a given reform would affect victims or change system costs.

RECURRING insurance crises will be controlled only by insurance reform. Although insurance is a national, $310 billion business, it is regulated only by the states. But most state regulation is of consumer insurance; commercial insurance is almost entirely deregulated. Thus, deregulated commercial insurers are exempt from Federal antitrust laws and from oversight or prosecution by the Federal Trade Commission, and effectively exempt from Federal income taxes. Over the last 10 years, property/casualty insurers earned $75 billion but received a net tax refund of $125 million.

Last week, a special commission in New York proposed a plan that would restrict insurers' freedom to set rates and cancel coverage, and would give municipalities the right to form insurance pools. In return, insurers would get some protection against frivolous suits, the right to pay out settlements over several years and protection against one insurer paying the entire award when several parties share responsibility.

The plan, combined with Governor Cuomo's stipulation that limits on liability awards be accompanied by reductions in premiums, has much merit, and, if enacted, would be a constructive step and an excellent model for other states. But more needs to be done on the Federal level. Specifically, Congress should do the following:

- Repeal the insurance industry's antitrust exemption. Now, committees of the Insurance Services Office, a rate-making organization run by the insurance companies, set rates for most types of insurance.
- Create a Federal Office of Insurance to monitor the industry and establish minimum standards for state regulators.
- Repeal the insurance industry's exemption from Federal Trade Commission jurisidiction.
- Expand the Risk-Retention Act, which allows manufacturers — but not other businesses — to join together to self-insure or bargain for lower rates. This would pre-empt state laws.

The states could take several steps to bring down rates, starting with enforcing their own laws. Most states rely on competition to control rates, but competition cannot control prices when the periodic cartel pricing takes over. And states should follow New York's example and require insurers to give adequate notice of, and clear reasons for, cancellations or refusals of new coverage.

They should also build up their regulatory bodies — half do not even have actuaries, and few require consumer representation. One exception is New Jersey, where the public advocate may intervene in insurance rate cases, with the cost borne by the insurer seeking a price increase. This both discourages insurers from seeking exorbitant increases and minimizes public outlays.

The roller coaster is now reaching the top of the first big hill — the steep part of the ride, toward excessive profits. In a year or so, the downward trip will start, heading us toward a 1995 "crisis." To stop the roller-coaster ride, Congress should apply the brakes of insurance reform. ■

Robert Hunter, Federal Insurance Administrator from 1974 to 1978, is president of the National Insurance Consumer Organization, a consumer-oriented research organization.

PETITION TO THE LEGISLATURE

We oppose the insurance crisis/tort reform effort at changing our civil justice system. The present system gives us a fighting chance for justice and reasonable compensation against rich and powerful corporations and insurance companies. Limiting non-economic damages is unfair because sometimes people are damaged by wrongdoers in important non-economic ways. Changing our civil justice system won't lower insurance rates anyway according to the insurance companies. Please leave our civil justice system a one.

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Bernadette Runcorn	203 W 14th St. #506 Anch
Paul Cohen	2310 Sentry #707 Anch, AK 99507
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Alice Kleppen	3030 Delaware Anch. AK 99517

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Name	Address
Annie Johnson	2241 F 9th #4 Anch AK 99507
Darin E Wittstock	2241 F 9th #4 Anch AK 99507
Darin J Johnson	5116 Kingsley Rd. Anch. AK 99502
Josephine Burkhardt	P.O. Box 100181. Anchorage AK. 99510
Darell L. Johnson	2716 Raspberry Rd. 99502
Karl Bittkovich	912 E 10th Ave 99501
Elizabeth Burkhardt	912 East 10th Ave 99501
Jeanie M. Nixa	P.O. Box 770095 Eagle River 99577
Mark Nixa	P.O. Box 770095 E.R. 99577
Carolyn M Johnson	2716 Raspberry Rd Anch, AK 99502

Chugiak-Eagle River
Chamber of Commerce

P.O. Box 770353 / Eagle River, Alaska 99577

"PLACE OF MANY PLACES"

April 11, 1986

Representative Randy Phillips
Post Office Box V
Juneau, AK 99811

Dear Representitve Phillips,

On April 11th the Chugiak - Eagle River Chamber of Commerce Board of Directors unanimously approved the following resolution:

> "Be it resolved the District 15 legislators be requested to vote against C.S.S.S.H.B. 532."
>
> "Be it further resolved that legislation which lessons the rights of injured persons should be approved only if there are guarantees that the reduction of these rights will substantially reduce liability premiums."

I am submitting this letter at the direction of the Board of Directors and request that you keep the Chamber advised on developments.

Respectfully,

Edgar W. Smoot
President

EWS:azh

PETITION TO THE LEGISLATURE

We oppose the insurance crisis/tort reform effort at changing our civil justice system. The present system gives us a fighting chance for justice and reasonable compensation against rich and powerful corporations and insurance companies. Limiting non-economic damages is unfair because sometimes people are damaged by wrongdoers in important non-economic ways. Changing our civil justice system won't lower insurance rates anyway according to the insurance companies. Please leave our civil justice system alone.

Name	Address
Rebecca Wilmot	423 Dimaka St. E.R. AK. 99577
Ann Smith	P.O.B. 1315 Palmer AK 99645
Linda Longstaff	5205 Canyon Anchorage AK 9952
[illegible]	[illegible] AK 99511
[illegible]	6130 E 12th #7
	Anchorage Ak

LAW OFFICES OF
RUSSELL L. WINNER
DENALI TOWERS NORTH, SUITE 702
2550 DENALI STREET
ANCHORAGE, ALASKA 99503
(907) 277-8522

May 5, 1986

Honorable M. Mike Miller
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Proposals for "Tort Reform"

Dear Representative Miller:

I am an attorney with a varied practice, living at 3025 Telequana Drive in Anchorage. I am opposed to "tort reform" for the following reasons:

1. Given the numerous issues of interpretation and constitutionality of the proposed legislation, it should be called the "Defense Lawyers' Relief Act." I predict insurance companies' litigation costs will actually increase rather than decrease if "tort reform" is enacted, due solely to the increased cost of paying for defense counsel to litigate over the uncertainty of interpretation of its various provisions.

2. The claim that there is an "insurance crisis" due to increases in claims seems reminiscent of claims that there was an "oil shortage" in the mid-1970's. I agree with Robert Hunter's conclusion that premium rate increases and coverage cancellations now are due principally to reduced insurance company income on investments rather than to their recent claims experience. See accompanying article written by him in the April 13, 1986 edition of The New York Times. It appears that the insurance industry is taking advantage of the current situation to attempt to stampede the legislature to limit its exposure to claims.

3. The Alaska Judicial Council, or some similar body, should be asked to report on the number of tort suits and their median and average settlements or judgments over the last ten years. I doubt this data will explain recent premium rate increases or support "tort reform." Enacting this proposed legislation without first collecting and analyzing this information seems unthinkable.

4. By mandating periodic payments to claimants in the manner proposed, the actual present value of the recovery to injured persons will be drastically and unfairly reduced.

5. Elimination of joint and several liability will result in a drastic reduction in the number of cases which settle. The increased costs to the state for the court system and the increased delay in going to trial are not worth this.

6. Restricting plaintiffs' attorneys' contingent fees will reduce claims only by making it impossible for some worthy claimants with high cost cases (e.g., for out-of-state depositions and expert witness fees) to even obtain an attorney.

7. Many of the provisions of the proposed "tort reform" are essentially undemocratic. They reflect a distrust of the judgment of representatives of the public, the juries. It must be remembered that juries hear all the evidence and arguments presented by both plaintiff and defense counsel, under the supervision of the judge. The solution to "runaway" jury verdicts--if such verdicts exist at all--is education of the public, as prospective jurors, not a legislative mandate uniformly restricting victims' rights.

8. "Tort reform" should not be enacted without a commitment from the insurance industry that premium rates will be lowered. Given the insurance industry's exemption from the anti-trust laws, their response that market forces will produce this result seems inadequate.

9. The rights of innocent, injured victims are at stake. Their right to justice and compensation in the courts should not be compromised without compelling and well substantiated justification. This has not been presented.

Thank you for your consideration of my views.

Very truly yours,

Russell L. Winner

RW/cm

Enclosure

Forum

REFORM INSURANCE, NOT LIABILITY LAW

Taming the Latest Insurance 'Crisis'

By ROBERT HUNTER

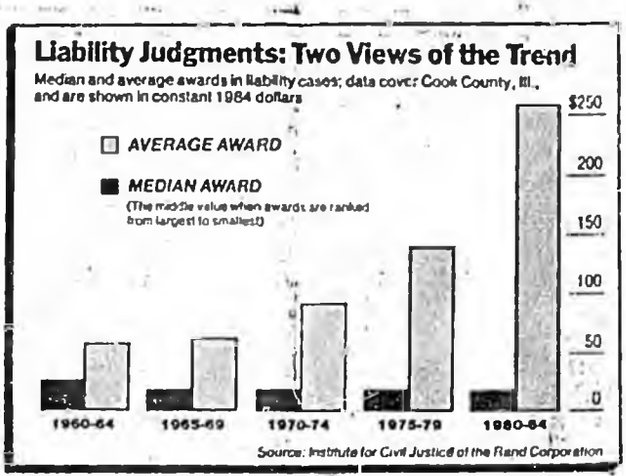
THE latest liability insurance "crisis," like its predecessors, is widely attributed to overly generous juries and court decisions expanding manufacturers' liability. As in the preceding "crisis," in 1975, little is said about the fundamental cause — the sharp ups and downs of the insurance industry's profit cycle.

The gradual expansion of legal liability and the profit cycle are distinct phenomena and should be treated separately. The former has not caused rates to increase dramatically: the profit cycle has. Thus, limiting liability and restricting jury awards will not avert future insurance squeezes, but flattening the insurance cycle will.

Consider the roller-coaster ride the insurance industry has taken us for in the last decade:

- 1975. The bottom. The industry earned 4 percent on equity, well below the average for all industry.
- 1976 to 1977. The ascent. The cost of insurance skyrockets by 300 percent or more for many doctors, manufacturers and others, as insurance companies' profits leap by more than 500 percent.
- 1978 to 1984. The fall. The high profits attract a flood of new capital. Insurers begin cutting prices and insuring poor risks, so as to obtain as many premium dollars as possible to invest at the high interest rates that prevail. Not surprisingly, the industry's profits decline, to a 2 percent return on equity in 1984.
- 1985 to 1986. A new ascent. As in 1976 and 1977, doctors, manufacturers and municipalities, this time joined by day-care centers and nurse midwives, find insurance costs rising by 300 percent and more — if they can get insurance at all. As the industry raises total premiums by $25 billion while reducing coverage, the stock prices of liability insurance companies rise by 50 percent, twice the rise of the Dow Jones industrial average. During the first quarter of 1986, insurance stocks rise another 22 percent.

Today, as in 1976, the insurance industry blames the legal system for the huge premiums. Their implausible claim is that judges and juries became generous in 1976, stingy for the next eight years and inexplicably generous again in 1985.



Actually, liability awards are remarkably consistent. In constant dollars, the median award has hovered around $20,000 over the last 25 years, according to the Rand Corporation's Institute for Civil Justice, although the average award has risen appreciably, reflecting the impact of a few huge settlements.

Legislated limits on liability awards have proved ineffective. Many cities and towns in Pennsylvania, for example, cannot get insurance even though the legislature virtually immunized them from liability the last time insurance rates shot up. The reason, simply, is that insurance rates and availability are determined by the profit cycle, not by juries.

Perhaps most significant, insurance companies have consistently refused to reduce their rates in exchange for legal limits on liability. If their problems were traceable to the civil justice system, then they should jump at the offer.

Certainly, the legal system is not perfect. Reforms, such as limiting fees for both plaintiff and defense lawyers and penalizing frivolous suits and frivolous defense delays, would enhance efficiency. But it would be unfair and nonsensical to limit compensation for injuries without proving that such a reform would work and providing an alternative.

Our experience with no-fault auto insurance is instructive. No-fault systems were enacted only after exhaustive studies showed that people with relatively minor injuries were overcompensated while people with severe injuries were undercompensated. Thus, a no-fault system for small claims made sense.

In contrast, the package of "reforms" sought by the insurers (and recently endorsed by President Reagan) not only involves no trade-offs — it takes away rights of injured people without giving them anything back — but is unsupported by any data about how victims fare under the current system, what drives up costs and how a given reform would affect victims or change system costs.

RECURRING insurance crises will be controlled only by insurance reform. Although insurance is a national, $310 billion business, it is regulated only by the states. But most state regulation is of consumer insurance; commercial insurance is almost entirely deregulated. Thus, deregulated commercial insurers are exempt from Federal antitrust laws and from oversight or prosecution by the Federal Trade Commission, and effectively exempt from Federal income taxes. Over the last 10 years, property/casualty insurers earned $75 billion but received a net tax refund of $125 million.

Last week, a special commission in New York proposed a plan that would restrict insurers' freedom to set rates and cancel coverage, and would give municipalities the right to form insurance pools. In return, insurers would get some protection against frivolous suits, the right to pay out settlements over several years and protection against one insurer paying the entire award when several parties share responsibility.

The plan, combined with Governor Cuomo's stipulation that limits on liability awards be accompanied by reductions in premiums, has much merit, and, if enacted, would be a constructive step and an excellent model for other states. But more needs to be done on the Federal level. Specifically, Congress should do the following:

- Repeal the insurance industry's antitrust exemption. Now, committees of the Insurance Services Office, a rate-making organization run by the Insurance Industry, set rates for more than 200 lines of insurance.
- Create a Federal Office of Insurance to monitor the industry and establish standards for state regulators.
- Repeal the insurance industry's exemption from Federal Trade Commission jurisdiction.
- Expand the Risk-Retention Act, which allows manufacturers — but not other businesses — to join together to self-insure or bargain for lower rates. This would pre-empt state laws.

The states could take several steps to bring down rates, starting with enforcing their own laws. Most states rely on competition to control rates, but competition cannot control prices when the periodic cartel pricing takes over. And states should follow New York's example and require insurers to give adequate notice of, and clear reasons for, cancellations or refusals of new coverage.

They should also build up their regulatory bodies — half do not even have actuaries, and few require consumer representation. One exception is New Jersey, where the public advocate may intervene in insurance rate cases, with the cost borne by the insurer seeking a price increase. This both discourages insurers from seeking exorbitant increases and minimizes public outlays.

The roller coaster is now reaching the top of the first big hill — the steep part of the ride, toward excessive profits. In a year or so, the downward trip will start, heading us toward a 1995 "crisis." To stop the roller coaster ride, Congress should apply the brakes of insurance reform. ■

Robert Hunter, Federal Insurance Administrator from 1974 to 1978, is president of the National Insurance Consumer Organization, a consumer-oriented research organization.

Allen R. Cheek
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99701
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May 4, 1986

BETTYE M. FAHRENKAMP
Senator
515 7th, Suite 320
Fairbanks, Alaska 99701

RE: COMMENTS ON S.B. 377

Dear Bettye:

I hope you have had time to review the proposed floor Amendment to S.B. 377 I telexed to your offices in Juneau May 3, 1986. Enclosed are some thoughts on S.B. 377, as proposed by the Judiciary Committee and by the Finance Committee.

Sec. 09.17.010. NONECONOMIC DAMAGES. I concur with the sentiments expressed in the Comparison Between Senate Judiciary and Senate Finance Versions of SB 377 forwarded to my offices by your staff. "Imposing a limit then will seriously impact a very few people with catastrophic injuries with no known corresponding public benefit." I would like to summarize the facts of an actual case now pending and use it to demonstrate the impact S.B. 377 could have on this case to help clarify my position.

I represent a 25-year-old woman who was paralyzed from the neck down in a single-vehicle automobile accident when the vehicle in which she was a passenger began to fish-tail on a slippery spot in the road and then suddenly commenced to rollover in a violent manner. She obviously will need a great deal of medical attention for remainder of her life, being unable to perform some of the most basic tasks, such as bathing herself, going to the bathroom, etc. In fact my client is a prisoner in her own body. The worst aspect of this case is that the manufacturer of the type of automobile in which she was a passenger at the time of the accident has ignored the fact that its vehicle has a designed-in propensity to handle in an erratic manner and rollover during the simplest manoeuvers, has ignored the fact that the vehicle has a woefully inadequate occupant restraint protection system to protect passengers and drivers during rollovers, and has failed to warn the motoring public of these facts or the many catastrophic accidents in which

other victims have been seriously injured or killed in rollovers. The comany's own safety engineers advised it how the vehicle should be re-designed in order to obviate these problems in 1979, but the manufacturer chose not to remedy the defects at that time and made substantial profits by failing to do so. My client was paralyzed in the above accident in January of 1983, a passenger in a 1982 vehicle. A few years ago the F.T.C. obtained a Court Order against the company ordering it to warn the public of some of these inherent dangers. My client has very limited control of her upper extremities but no fine motor control, but can get around in a motorized wheel-chair. But my client is not a quitter. Since her release from the hospital, she has found a good job and now makes more money than she did before the accident. Thus she has no substantial future wage loss that I can establish with certainty at trial. The defense attorney will surely object to evidence that, should her condition worsen as she gets older, she may become unemployed and thus suffer a future wage loss. This type of evidence would probably be deemed too "speculative" and thus inadmissible. Since her release from the hospital, my client's loving husband has in effect been her "attendant", seeing to her every need. But everyone has a breaking point, and thus it is possible that he may one day leave her. Or die. At which time she would need enough money to pay for attendant care, which is substantial. Since she has not incurred medical attendant care costs to date (she cannot afford them now even if something happened to her husband) my client will probably not be able to obtain these past medical costs. More importantly, however, is the problem I will have at trial trying to establish her future medical care costs without again having my evidence ruled inadmissible as too speculative. In short, it is much easier to establish future medical costs and wage losses when there is a history of said damages to present to the jury. Medical care costs, including attendant care, necessary for my client to even get out of bed. can easily run in excess of $100,000.00 per year.

It should be obvious that a limit of $250,000.00 or $500,000.00 for "pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life and other nonpecuniary damage" in the above-referenced case would be totally unjust, especially in light of the fact that, because my client is a fighter, she will probably receive nothing for future lost wages, and a very small amount for past lost wages (accrued while she was hospitalized). It is indeed possible that, in view of her

lack of substantial past medical costs, the largest item of damage she may receive will be for pain and suffering.

Sec. 09.17.020. PUNITIVE DAMAGES. My client would not be paralyzed today if the manufacturer had listened to its own safety engineers and remedied the defective condition of the vehicle--knowledge the company had over four years before my client was injured. Yet it marketed the product with wild abandon with millions spent in advertising, without ever warning the public of the known defects, in "reckless disregard" of the rights of the motoring public. I believe that I can establish this fact by "clear and convincing evidence" as opposed to a "preponderance of the evidence", but do not believe that my client and I should have to do so, for several reasons. Proving the defendant's conduct was in "reckless disregard of the rights of others" is a more difficult burden than proving that the product was defective or the defendant's conduct was negligent. In essence, by proving that the conduct was in "reckless disregard" of my client's rights, we have already shouldered a higher burden of proof. I have made a rough estimation of the amount of money saved by the manufacturer of the vehicle involved in my case by failure to follow the advice of its safety engineers and correct the defects in the vehicle. The company, by my initial conservative calculations, saved approximately 50 million dollars by not correcting the defects in the vehicle. I do not believe the company should be allowed to retain this ill-gotten gain at the expense of my client and other members of the motoring public. More importantly, this provision should have no effect upon insurance rates because ordinarily insurance companies do not pay punitive damages. The insurers have exclusions in their policies regarding non-payment of punitive damages, and it has been held against public policy to be able to insure against exemplary damages. Normally the only time an insurance company is exposed to payment of punitive damages is when it has treated its insured in bad faith or in an unfair manner, by either failing to pay under a policy when it should have, directly to its insured or his creditors, (direct bad faith action) or by failing to settle a claim within policy limits on behalf of its insured (third-party bad faith claim). I was recently contacted by a woman in Fairbanks who had to undergo surgery in order to save her life and turned the approximate $5,000.00 bill into her insurance carrier for payment, which it refused, pursuant to an "exception" in her policy. She is contemplating filing for bankruptcy because she cannot pay the bill. If no punitive damages were possible against her insurer, do you

think they would pay her medical bills when they receive a demand letter from me? Of course not, because if I had to take the insurer to court to obtain a judgment for my client and could not obtain punitive damages, the carrier's only exposure would be $5,000.00 plus interest and possibly limited attorney's fees. Why settle now when the insurer can invest the money for several years with almost nothing to lose by failing to pay its insured?
If the legislature adopts the Judiciary's version of S.B. 377 and awards 50% of punitive damage awards to the state, I believe that they should be placed in a special fund for tort victims injured by uninsured defendants or by similar defective products. A system could be established for example, whereby these tort victims could claim against the fund, and have a hearing by an administrator of the fund or a committee to determine how much the victim should receive, without even retaining an attorney, subject to review if the victim was dissatisfied.

Sec. 09.17.025. DAMAGES RESULTING FROM INTOXICATION OR COMMISSION OF A CRIME. I have no major disagreement with this proposal, primarily because I cannot afford to take a personal injury case on a contingency fee basis and advance all of the costs of the trial if there is a good possibility that the jury may determine that my client was the "sole proximate cause" of his own injuries, and render a defense verdict. I can envision certain cases where this provision may have the effect of "tainting" the jury with undue influence being brought to bear by virtue of an instruction regarding intoxication, especially in products liability cases. The law at present would allow the jury to diminish the plaintiff's award by the percentage of his own negligence (including intoxication which contributed to the accident or injuries), hence this proposal is not all that necessary.

Sec. 09.17.030. ITEMIZED VERDICTS. In most states the attorneys in a case can request the Court to submit special interrogatories to the jury, which the Judge sometimes does. While I do not believe this provision is necessary, it may benefit the insurance industry or the victim. The result of mandatory itemizing of verdicts may be an increase in the number of appeals, which would benefit the industry should the insurers make more money from investments during frivolous appeals than what they are obligated to pay victims in interest after an unsuccessful appeal. Should this happen, I would suggest that a constructive trust be impressed upon the amount which the insurer actually made

during the pendency of the appeal from the amount of the trial court judgment.

Sec. 09.17.035. PERIODIC PAYMENTS. I concur with the Comparison, supra, that "the system we have is not broken; it does not require fixing in this area." Moreover, I believe that structured settlements before trial are in the best interests of both the victim and the insurer and in my own practice have attempted to settle most of my larger cases with structured settlements. In the actual case referred to, I will be very happy to settle this case for my client on a structured basis before trial, and will advise her to do so. The benefit to the insurer is obvious, it can spread its losses over time, make money on its money (return on investment income, interest, etc.) and thus decrease its losses. The benefit to the victim is that a structured award is generally larger than a lump sum amount, and if structured correctly, can be a hedge against inflation. But if periodic payments are ordered after a judgment is obtained there will be no reason for an insurer to enter into a structured settlement before trial.

Sec. 09.17.040. VERIFICATION OF CIVIL CLAIMS. I see no problem with this at all. It will prevent bad faith claims on both sides.

Sec. 09.17.055. COLLATERAL BENEFITS. The possibility of introduction of evidence of collateral benefits at trial will only have the effect of reducing the settlement value of cases. The theory behind the "collateral source rule" is that, in the case of insurance paid for by the plaintiff, or job benefits bargained for by him, the benefit is one paid for by the plaintiff in the form of premiums or reduced salary scale, and the insurer or defendant should not be able to claim any credit for something the victim has purchased. I have a personal injury client who missed a substantial amount of work after she was involved in an accident where her car was totally demolished. She received "sick-leave pay" from her employer during her recuperation. During settlement negotiations the insurance adjuster advised me of this fact and argued that the insurer should receive a credit for the amount my client received from her employer. My client was very upset because she has now used up all of her sick-leave, and if she becomes ill in the future, will have no benefits. I agree with her that the insurer of the negligent driver should not receive a benefit from her accrued sick-leave pay which she no longer has.

Sec. 09.17.060. APPORTIONMENT OF DAMAGES. It is difficult for me to understand how this provision will have the effect of lowering insurance premiums with any degree of certainty. In my case, for example, the manufacturer will attempt to blame the accident on the driver of the vehicle, road conditions, etc., or anything but its defective vehicle. The vehicle went into a skid at about 30-35 miles per hour when the driver was shifting from second to third gear, and the accident did happen during winter conditions with snow and ice on the gravel road. In fact the driver did not have any liability insurance on the vehicle at the time, but if he had been carrying the mandatory minimum amount today, his insurer's total exposure would be $50,000.00, or not even enough to pay my client's initial medical expenses. The driver's premium would of course be based in part upon the amount of coverage, or $50,000.00 per person and $100,000.00 per accident pursuant to statute. Now the manufacturer pays a much higher premium for much more coverage in light of its total exposure to the public for possible serious injury or death as a result of defects in its products. In this particular case, the manufacturer has such a high deductible that when this case is settled (most likely and what usually happens in civil cases, in part out of fear of huge verdicts), that the insurer will probably not have to pay any part of the settlement.
Products liability cases are difficult to present to a jury, and often confusing at best. It oftens boils down to which expert the members of the jury understand and believe, or a "battle of the experts". Thus there is a distinct possibility that the jury could compromise its verdict and find the driver primarily responsible for my client's injuries, with the result that she could recover only a portion of the judgment from the manufacturer (the driver is judgment-proof). As between the two defendant's and my client, who should bear the risk of non-recovery? I submit that the manufacturer, being at fault, should bear the risk of not obtaining contribution from the co-defendant, rather than my client, who was not at fault at all--only a passenger. Furthermore, with the possibility of the manufacturer being held primarily liable for the judgment, and with the huge exposure at risk, there is no realistic possibility that the manufacturer's insurance premiums will decrease if this provision is passed.

Sec. 09.17.080. CONTINGENT FEE AGREEMENTS. The standard contingency fee agreement in personal injury cases nation-wide for years has usually been one-third of the settlement or judgment with most attorneys. Sometimes,

however, in expensive (out-of-pocket, at-risk costs advanced by the attorney) products liability or medical malpractice cases, or in cases of "thin" liability but serious injuries, I have heard of 40% or even 50% contingency fee contracts. I have never charged more than one-third and sometimes charge less, or 25%, depending upon the case. It is always up to the client, however, and shopping for an attorney is like shopping for anything else--if the client can save money, he can pick the attorney of his choice. I have also charged by the hour on cases and always advise the client of this possibility, but have only had one client wish to do this--personal injury victims often cannot even pay their ordinary bills.

Legally the victim is responsible for all advanced costs whether or not he or she recovers any money, but as a practical matter cannot usually reimburse the attorney, which the lawyer loses in the event of no recovery, in addition to any fee for all of his work on the case. Doctors charge a lot for their time to take depositions and testify--from a conservative $200.00 per hour to $1,000.00 per hour and more. These considerations, plus the case where there is no recovery, are basically the reason for contingent fee agreements. The proposal limiting fees to 25%, or less than the prevailing 33 1/3% is merely an attempt by the insurance industry to deter plaintiff's attorneys from pursuing the more expensive cases with possibilities of higher damage awards.

One of the articles I read recently stated that 37% of every dollar expended by the industry in awards went to insurance defense fees. The problem with the apparent limitation on defense fees to 25% is that it cannot be checked or controlled. In a serious case with potential huge liability, the insurer will not tie the hands of its attorneys to 25% but will simply allow the defense firm to "pad" the bills on other cases to "comply" with this provision. And what about putting a limit on the amount of costs the insurer can expend in defending a case? Most importantly <u>there are no victims complaining about the contingency fees charged</u>--only the insurance industry. The Senate Judiciary version is preferable.

Sec. 09.30.070. INTEREST ON JUDGMENTS. I concur with the position of the above-referenced Comparison. However, in the Finance Committee version, the jury would be allowed to consider prejudgment interest to be added to the award, which will probably result in lower verdicts, since the jury will try to compute in the interest in its award. If the insurance industry wants to introduce evidence of

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April 29, 1986

Representative M. MIke Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Miller:

The end of the legislative session is nearing and in this year being no different than years past, there is an urgency to "pass" certain legislation. One item of legislation is the so called "tort reform" legislation. One of your members was quoted in the Anchorage Daily News on April 21 of saying that no legislator wanted to vote against tort reform in this election year.

All of us know political realities result in passage of some legislation which is not necessarily favored by the people voting for it but it is supported because it is "popular". My concern is that there is two kinds of tort reform. 1) "tort reform" that may be beneficial and, 2) "tort reform" which is devastating to the victim's of accidents. Those of you who support legislation falling into this second category will be met next fall with charges that you "declared war" against victims, that you support discrimination against the young and elderly, or that you are an unthinking, unfeeling extension of the insurance establishment. My point is that jumping on wrong tort reform bandwagon may have more adverse effects that not supporting tort reform.

I would like to discuss some of the provisions of HB 532 as reported from the House Labor and Commerce Committee. My general comments apply to some of the Senate bills also. If HB 532 is passed it would clearly justify labeling it's supporters is "public enemy number 1." Section 09.17.010 entitled "Noneconomic Damages" provides as follows:

> "In an action to recover damages for personal injury based upon negligence, damages for noneconomic losses shall be limited to 25 percent of the present value of the damages awarded for economic losses, or $500,000 whichever amount is lower."

When I first learned of this provision I thought someone was engaged in a very macabre joke. The effect of this provision would be to shut down the existing system for personal injury recovery in all but very few cases. Even in those few cases where a recovery is pursued the best possible result for the injured plaintiff would still be a grossly inequitable result. I will lay out some examples below which are not atypical, which show the effect of this amendment.

EXAMPLE #1:

A 40 year old father of three suffers a moderately serious personal injury when a drunk driver runs into his vehicle. The victim is off work for six months for a loss of $20,000 in earnings (not covered by workers compensation or other ins rance) and he has a $50,000 medical bill (not covered by any insurance). He is able to return to work at the end of six months but must walk with a cane for the rest of his life. He is unable to engage in any outdoor activities or any other vigorous physical activities which were extremely important to his life. He is in constant pain. Though the injuries are not so severe that he cannot perform his work, at the end of each day he lacks the energy to engage in significant activities with his family. In summary both his life and the life of his family have been drastically changed by this injury.

The total amount of economic damages are $50,000 in medical expenses and $20,000 in lost wages. The maximum the victim could recover for noneconomic damages would be $17,500 for a total maximum recovery of $87,500; $50,000 of which goes to pay the doctor's bills and $20,000 of which reimburses him for the wages he lost on the job. The $17,500.00 is to pay for his noneconomic problems the rest of his life - 32 to 38 years.

If there is a dispute over responsibility, the victim must employ an attorney. Under the current status of the law attorneys which handle cases through litigation charge from 25 percent to 40 percent of the recovery. Furthermore, the plaintiff is usually required to pay the expenses of litigation from their share. Attorney's which have to litigate the case through trial usually lose money under these arrangements. Attorneys will represent injured people on an hourly basis but the contingent fee is used generally because the injured can't pay hourly rates. If the attorney only took 25 percent of the total recovery of $87,500 (that would be $21,875) and the cost of litigation were only $5,000, the plaintiff would end up with $60,625 from which he would have to pay medical expenses of $50,000. $10,625 would be to compensate him for his $20,000 in lost wages and his permanent injuries for the rest of his life. Is this fair? Under this scheme the attorney did not get rich when you consider the time expended and his office overhead which must be paid.

Unfortunately this example is very typical.

EXAMPLE #2:

A high school student with a very bright future but no earning history, suffers a devastating injury resulting in the loss of both of his legs and crippling of one arm. The total medical expenses are $100,000. Since there is no earning history and there are no lost wages, the total economic damages would be the $100,000 in medical expenses. The maximum that could be recovered for noneconomic damages for the loss of both legs and the lifetime crippling injury would be $25,000. This same result would occur for the person who is injured after he has retired with no further intention of working.

EXAMPLE #3:

A 25 year old, non-working homemaker suffers the loss of sight in both eyes when she is attacked and raped. Medical expenses are $1,000 and because she is not employed there is no

wage loss. The total economic damages are $1,000 and the total noneconomic damages are $250. Of course an attorney would not even be interested in looking at such a case because there is no way that he could receive any payment.

Example #1 is not atypical at all. Example #2 is not atypical. Example #3 is only atypical because of how the injury occurred but if that example were modified to the loss of sight in a simple automobile accident the result would be the same. If legislation of this nature is to be passed the legislature should instead simply abolish the tort system of recovery and require everyone to fend for themselves. No one is advocating that that occur but the effect of passage for 09.17.010 would be the same.

Senate legislation which places a $250,000 upper limit on noneconomic damage is less offensive but it will devastate the seriously injured person, while allowing the slightly injured person to be made whole. Is that justice?

AS 09.17.035 regarding "Periodic Payments" is an objectionable provision as it is written because of internal inconsistencies and ambiguities. Sections A through D of that statute seem to provide that the Court, if it determines it is in the injured plaintiff's best interests, may require the defendant to pay into the Court sums of money for future damages and the Court would administer those funds for the injured person. Under certain circumstances that is appropriate. However sections E and F of that statute indicate the defendant would only have to make periodic payments into the Court and the Court would disperse the funds to the injured plaintiff. That is inappropriate because should the defendant become insolvent the injured plaintiff may not receive his or her future payments. Furthermore, allowing the defendant to continuing using the money which the plaintiff has justly won places the injured plaintiff at risk. If those monies are paid to the Court and the Court administers those monies after determining that it is in the best interests of the injured plaintiff, this would be appropriate. On the other hand creating this additional burden for the Court will increase the confusion of administering recoveries.

Thus, in analyzing tort reform legislation regarding periodic payments each of you should distinguish whether these periodic payments are going to allow plaintiffs who have fought their battle completely through the Court, paid the costs of the battle and still be faced with losing what they had already won.

AS 09.60.010 contains two provisions which are particularly offensive. The first provision would abolish what is known as "Rule 82" Attorney's fees. It is true that Alaska is the only or one of the only jurisdictions in the United States which allows the prevailing party to recover attorney's fees from the losing party. Rule 82 does not allow actual attorney's fees but instead the amount of attorney's fees awarded by the Court are usually 20 to 80 percent of actual attorney's fees. The Court has discretion in this area.

The abolition of Rule 82 attorney's fees will result in more litigation and fewer out of court settlements. Under Rule 82 both sides recognize that if they are not successful in prevailing they will have to pay the actual costs of the other side and a healthy sum toward the other side's attorney's fees. These factors must be calculated into the risk of going forward with litigation or not. Rule 82 attorney's fees apply to both sides.

Without the award of attorney's fees defendant's will be more inclined to take unreasonable positions in pushing cases to trial because they know if they lose all they will have to pay is a judgment and their defense costs. If they win all they will have to pay is their defense costs. Plaintiffs will push tenuous cases to trial which should be settled because if they lose, all they will have to pay is the cost of litigation. Personal injury plaintiffs do not even have to pay attorney's fees if the case is handled on a contingent fee basis, as most of them are.

In addition, there is a more fundamental reason for Rule 82 fees than what I have just laid out. If an injured person must pay attorneys fees to collect what he is justly owed he is not made whole even after a successful conclusion of the case, if litigation costs and attorney's fees are deducted from his recovery. This is inherently unfair. Rule 82 reduces the extent of the unfairness somewhat.

Rather than the abolition of Rule 82, Rule 82 should be amended to require that the losing party should pay the actual reasonable attorney's fees incurred. This would create strong incentives for the litigants to determine early on what the merits of their case are so they do not end up burdened with the full amount of attorney's fees incurred by the other side. Such a provision would reduce litigation.

The second provision of AS 09.60.010 which is offensive pertains to permitting a party to petition the Court to determine the reasonableness of attorney's fees after the work has been done. Though I have no objection to examination of attorney's fees agreements, to create a provision which would allow an agreement entered into between the attorney and his clients to be modified by the Court after the attorney has fully performed the services contracted for is unfair. Furthermore, such a provision creates a situation where unrest can occur between the attorney and the client. If there is evidence of attorney's engaging in overreaching or unethical conduct, this should be reported to the Bar Association for an indepth analysis. Legislation which would place more teeth in the Bar Association fee arbitration process may be appropriate. My perception of the proposed legislation is vague because the statute is vague as to what it is attempting to accomplish. Since there is currently a fee arbitration mechanism for the Bar Association, it is unclear to me whether this proposed legislation is designed to accomplish what the fee arbitration already accomplishes.

There are other provisions set out in HB 532 that greatly concern me. Such as modification of joint and several liability and the provision as to collateral sources. However, these provisions have some reasonable, equitable basis and at least can be justified from an intellectual standpoint. By the same token, provisions that clearly are designed to reduce the costs of litigation such as requiring arbitration on disputes involving $75,000 or less clearly are supported by me. There are numerous other provisions in the bill such as itemized verdicts, verification of court claims, contributary fault and the effect of a release which either do not change the law at all, simply codifies what is in existence or does clarify what the law is. I support these provisions.

The provisions which I have outlined above, limitations of recovery of noneconomic damages, periodic payments controlled by the defendants, abolition of Rule 82 attorney's fees, and impending on the rights of attorneys to contract with their clients (in descending order of importance) are vigorously opposed. Any legislator who votes for legislation that will clearly limit the rights of an injured person will have to face the music on election day, particularly in light of the fact the evidence overwhelmingly establishes that insurance rates will not decline just because tort reform is passed; even tort reform limiting the rights of recovery injured people.

As I review this letter I realize some of you may view this as an attempt to intimidate or improperly influence the legislative process. That is not my desire. Instead, I simply want to point out to all of you that the tort reform/insurance "crisis" issue should be determined based upon the facts and what is right and proper for Alaskans. It should not be based upon who will and will not receive votes. Unfortunately all too often individuals in your position must keep in mind what will happen at the ballot box. Hopefully your basic principles and beliefs as to what is right and wrong dictate how you vote as opposed to whether it will result in your reelection or not. In this instance voting for reasonable tort reform and against oppressive tort reform is not only the politically appropriate thing to do but is also the just and moral thing to do.

Yours very truly,

Elliott T. Dennis

ETD:jo

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April 29, 1986

Representative M. Mike Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Legislators:

The Legislature is engaged in enacting legislation to solve the insurance crisis. That proposed legislation is generally referred to as "Tort Reform" legislation. Finding a solution to the "insurance crisis" is extremely important because the high insurance rates or simply the lack of insurance coverage is of dire concern to those who have worked so hard to accumulate something and are faced with the prospects of losing it if they make a mistake for which they are not insured. The idea is to enact legislation which will result in insurance rates coming down and the availability of insurance improving.

In response to these needs "tort reform" legislation has been proposed. However, not even the insurance industry believes "tort reform" will lower insurance rates or improve the availability of the insurance. These are hard, cold facts.

Other jurisdictions where tort reform has been enacted such as Iowa, Pennsylvania, California and Quebec, Canada have the same high insurance rates or unavailability of insurance rates as jurisdictions where changes in the law have not occured.

Given these facts why is the legislature entertaining proposed tort reform legislation? There are a multitude of answers to that question and they are not particularly pleasant. First, an insurance crisis exists and constituents are up in arms about the high insurance rates and the unavailability of insurance. Second, the insurance industry though not being able to state that insurance rates will come down and the availability of insurance will increase, blames the problem of high insurance rates on the tort system. The insurance industry begrudgingly admits their primary problem at the present time is not the result of large jury verdicts but instead the sharp decline in

interest rates and poor underwriting practices. Third, since no other solution to the insurance crisis is known, reforming the tort system makes it seem like something is being done. Fourth, 1986 is an election year and legislators want to be able to tell their constituents they have done something about the insurance crisis.

If you vote for laws which affect the ability of injured people to recover for their injuries you better be able to explain to your constituents why! Also when you tell them what great things you have done to end the insurance crisis you better be prepared to explain 1) why the rates have not come down and 2) why the availability hasn't improved.

The bottom line is that if tort reform is passed it will not be because it will accomplish a legitimate purpose. Instead it will only pass because of political expedience. The cost of that political expedience, if the proposed legislation is enacted, will be borne by those less vocal members of our society, the future victims of serious accidents. I perdict those victims will become very vocal if they feel the effects of politically motivated legislation and you will feel the results of their wrath.

Yours very truly,

Elliott T. Dennis

ETD:jo

cc: Editor, Anchorage Times
Editor, Anchorage Daily News

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April 29, 1986

Rep. Mike M. Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

RE: Tort Reform Proposed Legislation

Dear Representative:

I previously wrote to you regarding the issue of Tort Reform. You will recall that I sent you copies of numerous newspaper articles which have been written about our client, Linda Bennett, a blind girl who was injured in an automobile accident.

I am writing to you on this occasion with reference to two bills, House Bill 506 and Senate Bill 404. Both of these bills authorize joint insurance arrangements through which participating members agree to pool contributions in order to reduce the cost of insurance coverage through purchasing on a group basis. The House Bill specifically authorizes municipalities, school districts, regional educational attendance areas and regional electrical associations and others to form such participating joint insurance arrangements. I believe that the idea behind pooling arrangements is that if municipalities throughout the state purchase insurance as a group, they can possibly get it at a lower premium. This is indeed true of other kinds of group insurance arrangements, including liability insurance. I personally have handled several cases in which individuals residing in rural areas throughout Alaska have been either killed or have been seriously injured as a result of negligent conduct by employees of municipalities, school districts and public utilities. It is the observation of both myself and my partners that the number of catastrophic injuries or deaths that occur on an annual basis involving school districts, utilities and municipalities are not great in number, but that the insurance premium charged by the insurance companies for individual policies is extremely high. That is to say that it appears that the municipalities

are each being charged a premium for insurance which covers for all claims made on a statewide basis. It appears to us that there is an excessive amount of liability insurance sold to municipalities in similar groups in the state and that if one policy were sold to cover all of the municipalities, the premium charge for such a policy would not be appreciably higher than the individual premium of any one of the municipalities currently purchasing insurance.

In addition, these bills would permit municipalities to pool money to pay claims outright without buying insurance. This would also greatly reduce the cost of insurance to the outlaying municipalities, school districts and utilities. In addition, since this is legislation which would simply provide the option and would not mandate any pooling arrangements, I cannot see any harm which would result from its passage. In short, in view of the "insurance crisis" currently affecting this type of entity, it appears that this is very favorable legislation.

It is my understanding that House Bill 506 was referred to the finance committee currently chaired by representative Al Adams of Kotzebue. It is also our understanding that the Alaska Municipal League has formally endorsed this legislation and has urged its passage, particularly for the benefit of remote communities such as Kotzebue, Nome and Barrow. I personally do not understand why these bills are being held in committees while the Tort Reform Legislation, which would greatly reduce the fair compensation paid to victims is being pushed so heavily. The so called Tort Reform will have a direct financial impact upon citizens of the State of Alaska. The pooling arrangements permitted by these two bills will not result in any losses to anyone other than the insurance companies who wish to continue collecting high insurance premiums from municipalities on an individual basis rather than allowing them to either be self insured on a group basis or purchase group insurance. Experience in the insurance industry has proven that selling coverage and spreading risks on the basis of a group, such as group medical insurance, group life insurance, fleet liability insurance for automobiles and other types of group insurance prove to be more economical. The Legislature has previously allowed the doctors to form a statewide organization to purchase liability insurance for medical malpractice on a group basis. This legislation will result in a direct

reduction in governmental costs to the local governments, the state government and the federal government which all currently subsidize the local governments in rural areas. Operating as a group will also give the smaller entities much more bargaining power when it comes to the question of purchasing insurance and fixing the premiums. At the present time, the small school district or municipality has no bargaining power when dealing with the larger insurance companies from outside of the state. Passage of these bills will go to the heart of the problem of reducing insurance premiums rather than simply reducing the awards to the victims. Reducing the rewards to the victims simply increases the profit margin realized by the insurance companies.

In closing, I would strongly urge that the Legislature consider these two pieces of legislation as a means of partially resolving the so-called insurance crisis.

Very truly yours,

KENNELLY, AZAR & DONOHUE, P.C.

William J. Donohue

WILLIAM J. DONOHUE

WJD/adk

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see articles

April 29, 1986

RE: LIABILITY INSURANCE CRISIS AND TORT REFORM LEGISLATION

Dear Legislator:

Please find enclosed information regarding the liability insurance crisis. My clients and your constituents are very concerned that spokesmen for the insurance industry have indicated that liability premiums will not be reduced if tort reform legislation is enacted. As is indicated in the article entitled "Taming the Latest Insurance 'Crisis'" printed in the New York Times, April 13, 1986 edition:

"Perhaps most significant, insurance companies have consistently refused to reduce their rates in exchange for legal limits on liability. If their problems were traceable to the civil justice system, then they should jump at the offer."

I strongly urge you to vote against any tort reform legislation unless and until the insurance industry comes forward with sufficient financial information with which to determine whether or not the present liability insurance crisis is in fact the product of the industry's own price-cutting policies of recent years. Additionally, any tort reform legislation which would of necessity limit the exposure of the insurance industry should be tied into a definite and substantial reduction in insurance premiums to the Alaskan consumer. It is further my opinion that all tort reform legislation should be tabled pending a further in-depth analysis of the extent of the problem and other possible solutions to this problem.

Sincerely yours,

Allen R. Cheek

ALLEN R. CHEEK

Enclosures
ARC/ej

April 24, 1986

Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: Tort Reform

Dear Legislators:

I am a personal injury victim and I oppose the insurance "crisis"-tort reform effort changing our system of civil justice. The present system gives an injured person a fighting chance for justice and reasonable compensation against rich and powerful corporations and insurance companies. Limiting economic damages is unfair because sometimes people are damaged by wrong doers in important ways that are not just tied to the economic losses of wage loss and medical bills.

The day to day living of the physical pain and mental anguish generated by some physical injuries deserves fair compensation. The juries and the courts have good sense and judgment to base these kinds of losses on what our society thinks is fair.

Changing our civil system and taking these decisions away from the courts and juries will not lower insurance rates. You already have evidence in front of you that the insurance industry in Alaska is profitable. The statement that premiums will be lowered if you adopt tort reform is not supported by the experience in the Canadian Provinces where the tort reform, as proposed in Alaska, is already in place.

Changing our civil justice system won't lower the insurance rates. Please leave the system intact and in the hands of responsive and responsible members of the community, the jury and the court.

Three hundred years of careful development through the legal system of injured persons rights should not be blown away by a short term crisis created by the insurance industry's own financial mismanagement.

Sincerely yours,

Sylvia Gilmore

2412 West Marston Drive,
ANCHORAGE,99517.

April 24,'86.

Mrs Drue Pearce,
Representative, State House,
POUCH V
Juneau 99811.

Dear Mrs Pearce,

Many thanks for your letters that I have received from time to time indicating your current legislative activities,feelings and philosophy. I did not vote for you, because of an opposing opinion on the abortion question-among other things- but it was nice to hear from you all the same.

Moreover, I should be interested to know how you intend to vote on the Tort Reform question....H.B. 532 and/or its amendments,or its evolution into a higher stage at the CSSB level. For what they are worth, I have included some thoughts and possible alternative options that might be considered.

$250,000

Is this what a Christa McAuliffe,a Judy Resnick, a Ronald McNair,or a Mitsue Onizuka are worth? Or a schoolchild hit by a School Bus or crushed by a reversing dumpster? Isn't there a skein of accountability and personal negligence, in all the motor vehicle, aircraft and other disasters that have plagued this country the last decade, to say nothing of the havoc wreaked by intoxicated drivers? Will this limit of this figure encourage a more cavalier attitude?

Is this figure to be carved in stone, and remain the limit throughout the hereafter,irrespective of the purchasing power or other factors?

Legal ramifications

It is my understanding that there are now in force certain limitations in other states on the amounts of plaintiffs' damages. In one state,however, I believe that there have already been constitutional challenges in court.(Illinois?) One might wonder whether this bill might be passed only to have it nullified in the Supreme Court.

Other considerations

1/. The establishment of a reserved specific fund to be withdrawn from the permanent Fund for the care of victims

permanently crippled as a result of the actions of underinsured tortfeasors. Not a very popular idea in these days of belt-tightening, and there is a risk that the money might be a target for less scrupulous claimants or their representatives.

Or else the State might provide, alternatively, medical/surgical care in kind for those legitimately permanently injured plaintiffs. In a sense, and in another field, the State does do this for those permanent residents who need medical care, irrespective of status, through the Pioneer Home system.

2/. A fact which stands out in remarkable clarity is that against both the members and the institutions in the Public Health Service, The Army and U.S. Air Force Medical service, medical services in Canada and the European National Health Systems, malpractice actions are rarely, if ever, heard of, although they undoubtedly exist in small numbers.

This might suggest that one way to deal with the malpractice insurance crisis would be to offer surgeons and high risk doctors salaried employment in a State Medical service, one of their emoluments to be an ongoing guarantee of permanent indemnity against medicolegal claims. I imagine the shriek going up from the profession at this suggestion, but it might certainly solve the medical insurance dilemma. Another thing is that the aforementioned systems always take care of their "own" if complications from surgery or other care should occur. As I noted, claims against the excellent doctors at ANS are very rare.

3/. Another option that might be considered might be the institution of specialization in trial law as is found in other English-speaking countries. By this means a "solicitor" would triage or filter off the irrelevant claims, and solicit the services of a barrister for those of merit. This works well in Canada, but I can foresee the agonies of those who would have to put in extra years of "taking silk" under this arrangement, but it would prevent the filing of nuisance claims by young attornies under the pressure of meeting their overheads. Against this, attornies often risk tens of thousands of their own resources on the risks of an action for injury.

However, if the financial side could be taken out of the dilemma, I believe that all parties would benefit; this includes high surgical fees, which in part are necessary to cover monetary practice expenses.

The above are suggested as a sort of compromise of which any might be considered so that all concerned may be happy-or equally unhappy-bearing in mind that to a legislator the options may make total parliamentary nonsense.

Sincerely,

Stanley Austin.

sa

cc: Clocksin, Hanley et al.

ADASIAK
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Rep. M. Mike Miller
P.O. Box V
Juneau, Alaska 99811

24 April 1986

Dear Mike:

The tort reform situation seems quite tangled. Attached is a lean, simple solution, based on improving what we have already. I'm not so outrageous as to believe this is the complete answer, but I hope it helps.

The obvious objectives of tort reform are:

A. Lower settlement costs.
   1. Lower insurance rates.
   2. Insurance available to those who need it.
B. Speedy settlements, fewer court cases.

In addition, there is another objective that has great appeal for me and for many others:

C. Minimum government involvement.
   1. No fixed recovery rates for particular injuries.
   2. No fallible committees to make determinations.
   3. No limitation on contingency fees.
   4. Maximum operation of the free market system.

My proposal for tort reform may be sufficient to meet these objectives. I have also provided some of the reasons I believe it will work.

I urge you and the other members of the legislature to enact a set of cautious changes like these first, and to monitor the results. Major reforms may not be necessary in order to achieve the objectives.

Thank you for your consideration.

Sincerely,

Allan Adasiak

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TORT REFORM:
Improve What We Have

A. The Interest Penalty "Spur" to Settlement
(Code of Civil Procedure Sec. 09.30.065)
1. Plaintiff or defendant makes offer of judgement.
2. If final verdict is less than the amount offered, then
3. Opposing party must pay, in addition to the settlement amount, a penalty of interest at the rate of 3 points over the prime rate, computed on the verdict amount from the date of the offer.
4. Change the basic interest rate on judgements from from 10.5% to 13.5% (Sec. 09.30.065).

B. The "Blind Box" to Improve the Settlement Climate
1. If both parties wish to make offers of judgement, a "blind box" is created.
    a. Offers are submitted to the "blind box."
        1. Offers are converted to a common base when necessary to facilitate comparison.
    b. A neutral party monitors the offers and communicates with the parties only if:
        1. The offers cross.
            a. Then the parties settle at the midpoint amount.
        2. The offers come within 25 per cent of each other.
            a. Then the case is set before a Superior Court judge for settlement in 30 days.
            b. The case does not go to court if a settlement is worked out within 30 days.

C. The Right to Speedy Trial
1. Improve the "fast track" court we now have.
2. 120 days to trial, with specific exceptions.

Adasiak Professional Services
1835 Crescent Drive
Anchorage, AK 99508

Why Will This Speed Settlements and Lower Insurance Rates?

1. The Interest Penalty "Spur" provides insurance companies with economic motivation to settle quickly.
   a. Currently an insurance company can often make more investing funds than the difference between an initial settlement offer and the final judgement. The spur eliminates any investment motivation to draw things out.
   b. Many qualified insurance company personnel defer to the company's legal department rather than moving toward settlement.
   c. The legal department has no incentive to settle quickly or economically, but a strong incentive to take time. However,
   d. The legal department controls the purse strings and can decide when to settle.
   e. The legal department can forecast a high settlement figure, then look good when it comes in lower.
   f. Most cases are settled "on the eve of trial," although that eve may be years after suit was filed.

2. The interest penalty spur will also move defendants to settle.
   a. Hopes of a large jury verdict must be weighed against the interest penalty.
   b. Willingness to accept a reasonable offer will be enhanced.

3. The "blind box" will improve offers of judgement.
   a. Neither side will know the amount offered by the other side.
   b. Offers would be made in good faith, not just to see what the other side might bite on.
   c. Entering into the "blind box" creates a commitment to settle if certain conditions are met.

4. Plaintiff's right to speedy trial will cut down needless trial preparation and reduce costs.
   a. Insurance company lawyers engage in almost endless discovery: lengthy interrogatories, hours and hours of depositions, etc., producing tons of paper chaff and an occasional useful grain.
   b. Insurance company lawyers have the staff and budget to do that, so
   c. They force plaintiffs to strive to match the

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effort, and although it is often a David and Goliath contest, plaintiffs must do what they can or be overwhelmed.

d. This drives costs up, and costs are a part of any settlement amount.
e. Focusing on key facts and issues within 120 days is possible in most cases, and provision can be made for the exceptions.
f. A "fast track" court will further expedite matters.
g. Savings in time will result in savings in money.
h. Insurance companies can reduce overhead.
i. Plaintiff avoids danger of being brought to his knees economically through long, expensive proceedings.

Why will this minimize government involvement?

1. The interest penalty "spur" once enacted does not require new machinery to implement it.
   a. It should reduce the number of court cases.

2. The "blind box" and speedy trial provisions will require minimal money and personnel to implement.
   a. "Blind box" monitors need little more than basic mathematical skills.

3. Savings in reduced court time could offset those costs.

4. Other, more elaborate tort reform proposals calling for greater government involvement would not go into effect.

LLOYD V. ANDERSON
370 Oceanview Drive
Anchorage, Alaska 99515

April 22, 1986

Editor
Anchorage Daily News
P. O. Box 6616
Anchorage, Alaska 99502

Dear Editor:

In a recent article, a spokesman for those seeking changes to the tort/civil justice system because of the insurance crisis indicated that underwriting insurance in Alaska has been profitable for insurers, but apparently not profitable in some other parts of the nation. I also understand that a recent State Department of Insurance study shows that insurers in Alaska have paid on claims only 62% of the premium income received, thus making Alaska one of the more profitable locations for insurers.

This all indicates to me that the Alaska tort/civil justice system is working, and will allow injured citizens the right to seek redress in a setting which permits insurers to make a profit while charging reasonable rates. We are part of this insurance crisis, I gather, not because of the functioning of our civil justice system, but because of problems insurers ran into investing the profits they made from us, or problems in other states' civil justice systems.

Alaska has features to its civil justice system, some of them unique, which, perhaps, should be studied for adoption in the problem states, rather than changed in our state. For example:

1. Alaska is the only state to have the English system of requiring the loser to pay an amount for attorneys fees to the party prevailing in a civil action. This discourages frivolous suits and frivolous defenses and encourages prompt settlement.

2. Alaska allows prejudgment interest. This discourages delaying tactics sometimes employed on the theory that the longer payment is delayed, the more the payor can earn on the money withheld.

3. Alaska has provisions for offers of judgment by both plainiffs and defendants which penalize a party refusing such an offer if the ultimate outcome is less favorable to him than the offer. This encourages prompt settlements.

4. Alaska has a history of sensible juries and a strong judiciary which has reaffirmed and exercised its right to review and reduce any excessive jury verdicts.

5. Alaska has adopted the Uniform Contribution Among Joint Tortfeasors Act which encourages early settlement in situations where two or more wrongdoers have caused an injury, and provides a means for the wrongdoers to adjust the loss between themselves without making the injured party's rights await and be contingent on the fingerpointing between the wrongdoers.

Asking us to change a system that will function fairly and well, so that there can be even higher underwriting profits in Alaska to be used to offset the alleged underwriting losses in other states seems to be asking a bit much of us. Since the problem is not with our civil justice system, the solution is not in changing it.

Sincerely,

Lloyd V. Anderson

LVA:dw

April 22, 1986

Members Mike
House Judiciary Committee
Juneau

Re: Tort Legislation

Old legislative aides never die, they just keep researching away. With some very good reasons, recently I have been digging into the tort/insurance issue. The following are my findings, my deductions and recommendations:

I am confident of my sources who indicate that the state insurance industry will be reasonably content this session with a modification of "deep pocket" liability. Additionally, it would be good to have properly maintained zoological facilities removed from the old English common law onus of "harboring wild animals". (The Alaska Zoo is hardly in the same league as someone who has a wolf for a housepet.)

A good part of the insurance "crisis" should have been averted by the state division of insurance, had they followed the mandate of Title 21. At the beginnings of reading the insurance division statutes, Sec. 21.06.110 and Sec. 21.06.115 caught my immediate attention. (Enclosure) Upon investigation, it would appear that these two sections have not received deserved legislative oversight, largely because of the timing of the publication.

For instance the director of insurance prepares for the legislature and commissioner an annual report "as early in each calendar year as is reasonably possible". However, since the insurance companies do not report their data until March 2, this means by the time the compilation is completed and printed it is late in the session or the session is already ended. The last annual report available from the Anchorage office is naught but numbers-numbers-numbers. One would have thought that the "crisis" would have already been noted and reported to you in narrative form and that recommendations (Sec. 21.06.110(6)) and other pertinent information (Sec. 21.06.110(7)) would have been ready for your consideration at this session beginning.

When it comes to the format of an annual report, I invite you to compare the Division of Insurance report with that of the Alaska Public Utilities Commission. APUC has both charts of numbers and narrative data in explanation and trend projections. Likewise, let us try another comparison. The APUC summation of application for rate changes versus increases granted indicates that the commission had a 76/24 percentage ratio of increases sought versus amount of increases granted. (I wonder what the box score is for the division of insurance?)

Now let us investigate the duty of the director of insurance to inform the public(AS21.06.110). Upon request to the Anchorage office, I found that there was no "information pamphlet on insurance and the rights of a consumer of insurance and on how to take advantage of the services of the division of insurance". In fact, there was no one in the office whom I found to be aware that such a pamphlet was a mandated requirement.

Interestingly enough, the Division of Insurance is not even found in the state listings for the telephone directory of the Municipality of Anchorage.

I realize that the state budget is very tight this year. But something MUST be done about the division of insurance. I think if you investigate the fee and license schedule for the insurance industry you will find that it has not matched the rate of inflation nor the rate of premium increases. (Sec. 21.06.250) There should be money available from within the realm of licensees to bear the cost of making the division more consumer-oriented and more responsive to the issues of our time.

Next we come to the statute section which is my favorite topic for improvement (Sec. 21.27.510). This refers to the first adversarial "point of contact" in any damage or injury case: the insurance adjuster. Interestingly enough, I have found that insurance adjusters do not have to be licensed if they are classed as "employees". This oversight might explain how they can be ignorant of the law, inept in procedure and insensitive to the suffering of the injured...to the point where there is no recourse but to bring an attorney into the picture.

Another point for inquiry is the payment formula for adjusters. Fees and commissions are allowed. In such cases, the payment to the adjuster would likely be in inverse proportion to the compensation to the victim, i.e. the lower the pay to the victim the higher the relative earning of the adjuster. Salaried, non-licensed adjusters, I have reason to believe, would receive bonuses for negotiating a particularly low payment to an injured party.

Considering the foregoing, you can understand that I would say that the initially presented legislative bills on tort changes have been poorly crafted. There has been much time lost and furor created when the mechanism for thoughtful change is already within the statute.

Changes which MUST be made are in the division of insurance and sometimes within the judiciary. Civil law should be changed in the joint and several liability claims, because as practiced the concept has been used unfairly against parties having little responsibility but "deep pockets" and high profile.

Being an old legislative aide, I have some appreciation for a well-crafted piece of legislation. And three of the bills presented this session began with a confusion of names for the main subject. I mistrust a bill when one object is identified by the use of too many nouns. For instance, depending on the bill and depending on the section, one subject may be called thusly: party, judgment creditor, claiming party, plaintiff, person, injured party, claimant, releasing party, actor, party making the claim, or party in interest. This proliferation of nouns makes me think the bills are basically "cut and paste jobs" which require more time for coherent and rational thought.

In conclusion, I would urge attention to changes in "deep pocket" awards.

But principally the naming of a legislative TASK FORCE is needed to revamp the division of insurance and to review and recommend reasoned changes to the Title 21 laws as will enhance their intent to protect and inform the public.

Respectfully submitted,

RUTH D. EDMONDSON
3326 W. 30th Avenue
Anchorage, Ak 99517

(907)248-5353

P.S. ONCE MORE INTO THE BREACH, OLD FRIEND. REMEMBER US TO MARILYN.

Sec. 21.06.110. Director's annual report. As early in each calendar year as is reasonably possible the director shall prepare and deliver an annual report to the legislature and the commissioner, showing, with respect to the preceding calendar year,

(1) a list of the authorized insurers transacting insurance in Alaska, with such summary of their financial statement as the director considers appropriate;

(2) the name of each insurer whose business was closed during the year, the cause of the closing, and the amount of ascertainable assets and liabilities of each closed business;

(3) the name of each insurer against which delinquency or similar proceedings were instituted, and a concise statement of the facts with respect to each proceeding and its present status;

(4) a statement in regard to examination of rating organizations, advisory organizations, joint underwriters, and joint reinsurers as required by AS 21.39.120;

(5) the receipts and expenses of the division for the year;

(6) recommendations of the director as to amendments or supplementation of laws affecting insurance, or the office of director;

(7) other pertinent information and matters the director considers proper. (§ 1 ch 120 SLA 1966)

Sec. 21.06.115. Duty to inform public. The director shall regularly inform the public of matters concerning the purchase, price, coverage, benefits, and rights of insurance marketed in this state and make available information on availability of the services of the division of insurance. The director shall prepare, publish, and revise as it becomes useful or necessary to do so, an information pamphlet on insurance and the rights of a consumer of insurance and on how to take advantage of the services of the division of insurance. (§ 1 ch 205 SLA 1976)

Todd Melvin
2616 N. Tahiti Loop
Anchorage, Alaska 99507
(907) 561-2697

April 18, 1986

Dear Alaska State Legislators:

My name is Todd Melvin. I am 27 years old, married, and have two children. Until November 1983, was employed full time as a hotel manager and professional cook. In November 1983, I had a vasectomy performed by a local surgeon. Due to that physician negligently cutting nerves during surgery, I am now completely and totally disabled. I am in constant pain. I cannot walk without the assistance of a cane. I cannot sleep at all at night. The only way I am able to sleep is by taking prescribed medication. Since I am 100 percent disabled, I am unable to work and my wife is now the sole supporter of my family of four.

I have had subsequent corrective surgery that has not done any good whatsoever. I have been told by other physicians that the subsequent corrective surgery was unnecessary. All-in-all, I have been treated by 17 physicians since the initial surgery on November 25, 1983. Now all of these surgeons have abandoned me.

The purpose of this explanation is to indicate to you, my representatives in state government, that I was a totally healthy individual before the initial vasectomy performed November 1983. Through no fault of my own, I have now become totally disabled, am in constant pain, and am crippled. This is something that could have happened to any of you, and could have happened to anybody else in our society.

Now I am told that there are those of you who would abrogate my right to recover for what has been done to me. There are Bills pending in the Legislature that would limit my recovery for my pain, suffering, humiliation, and total destruction of my life. What has happened to me could have happened to any of you, and will happen to people, perhaps some of you, in the future.

Please vote against any "tort reform" legislation. My rights, your rights, and those of your grandchildren should not be traded off in a hasty emotional decision where there is no proof that this will have any effect upon insurance rates throughout Alaska. At a very minimum, if I am to be asked to

give up my recovery for the rest of my life for what has been done to me, the insurance companies must guarantee in that legislation to make insurance available and lower their premiums permanently. This must be an essential requirement of any legislation affecting a victim's recovery.

Attached is a petition with signatures from many citizens who feel exactly as I do. Collectively we urge you to vote against any of the currently pending "tort reform" bills. If tort reform legislation is enacted, the voters of this state will remember which legislators voted in favor of it. These same voters will be the ones who will pay future insurance premiums that will not diminish. We will remember who traded our rights for absolutely nothing in return.

Very truly yours,

Todd L Melvin

Todd Melvin

PETITION

We, the undersigned, oppose the passage of House Bill 532 and Senate Bill 377, or any similar legislation which takes away the rights of an individual to be compensated adequately when they are injured through the acts of a third person. We support the enactment of insurance reform and insurance pooling legislation; this legislation addresses the true causes of the escalating insurance rates and provides real solutions thereto. Tort reform has been held up as a means to reduce insurance costs, but in fact there has been no guarantee by the insurance industry that the passage of tort reform will, in actuality, lead to reduced rates. All that the passage of tort reform will lead to is the victimizing of the victim by taking away his rights to be adequately compensated. We feel that is an outrageous attempt at taking the rights away from the people of Alaska who have not been adequately informed.
If they had been informed, they would not allow such legislation to be passed, since it not only impacts the individuals today but people who might become injured in the future.

Signature

LISA M. MELVIN
Print or type name

2614 N Tahiti Dr 99507
Address

/X/ Check if registered voter

Voter Registration #, if known

Signature

Kurt L. Melvin
Print or type name

Address

/X/ Check if registered voter

Voter Registration #, if known

Signature

Print or type name

Address

/X/ Check if registered voter

Voter Registration #, if known

Signature

Cynthia Kinter
Print or type name

6340 E 35th Ave Anch AK 99504
Address

/ / Check if registered voter

Voter Registration #, if known

Marjorie F. Forsberg
Signature

Marjorie F. Forsberg
Print or type name

5018 East 43rd # 22
Address Anchorage. AK 99508-5678

/X/ Check if registered voter

2252557
Voter Registration #, if known

Dolene L Simon
Signature

Dolene Simone
Print or type name

PO Box 190651 Anch AK
Address

/ / Check if registered voter

Sylvia Perryman
Voter Registration #, if known

Signature

3504 E 16 Anch AK 99508
Print or type name

Address

/ / Check if registered voter

Voter Registration #, if known

Diana J. Painter
Signature

Diane J. Painter
Print or type name

PO Box 773627, Eagle River AK 99577
Address

/ / Check if registered voter

Voter Registration #, if known

Dana Fogg-Ericsen
Signature

Dana Fogg-Ericsen
Print or type name

8000 Rovenna St. Anchorage, AK 99518-2449
Address

/ / Check if registered voter

?
Voter Registration #, if known

RoxAnn Greene
Signature

RoxAnn Greene
Print or type name

Box 510 Celestial ST
Address
Eagle River AK 99577

/X/ Check if registered voter

UNKNOWN
Voter Registration #, if known

Ronald L. Swan
Signature

RONALD L. SWAN
Print or type name

P.O. Box 772587
Address EAGLE RIVER, AK 99577

[✓] Check if registered voter

2682867
Voter Registration #, if known

Deborah M. Early
Signature

Deborah M. Early
Print or type name

1515 Kepner Anchorage, AK 99504
Address

[ ] Check if registered voter

Voter Registration #, if known

Nancy Cooley
Signature

Nancy Cooley
Print or type name

2300 Homestead Ct. #214
Address

[✓] Check if registered voter

2784155
Voter Registration #, if known

Karen M. Master
Signature

KAREN M. MASTER
Print or type name

2300 Homestead Ct Apt 3A
Address

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Voter Registration #, if known

Peter M.D. Kenz
Signature

Peter M.D. Kenz
Print or type name

2300 Homestead Ct. #5-B
Anch. AK 99507
Address

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Voter Registration #, if known

Laura M. Parker
Signature

Laura M. Parker
Print or type name

2300 Homestead Court # 1-A
Anchorage Alaska 99507
Address

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Voter Registration #, if known

Debra J Wendt
Signature

Debra I. Wendt
Print or type name

PO Box 11-1863 Anch. 99511
Address

/__/ Check if registered voter

NA
Voter Registration #, if known

Jack D. Wendt
Signature

JACK D. WENDT
Print or type name

P.O. BOX 111863 ANC. AK. 99511
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Voter Registration #, if known

Signature

Richard B. Yagle
Print or type name

1730 Friendly Ln.
Address

/X/ Check if registered voter

Voter Registration #, if known

Virginia P. Mara
Signature

VIRGINIA P. MARA
Print or type name

P.O. Box 4-2711
Address

/__/ Check if registered voter

Voter Registration #, if known

Charles A. Kaya
Signature

Charles A. Kaya
Print or type name

PO Box 190715
Address

/__/ Check if registered voter

Voter Registration #, if known

Gina F. West
Signature

Gina F. West
Print or type name

2631 N. Tahiti
Address

/__/ Check if registered voter

Voter Registration #, if known

Signature

Douglas O. Clary
Print or type name

2611 N. Tahiti Cp.
Address

/ / Check if registered voter

Voter Registration #, if known

Signature

Ken K. Kihara
Print or type name

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865491
Voter Registration #, if known

Signature

L. J. Hackett
Print or type name

2735 Teleguana Dr.
Address Anch, Ak 99517

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Voter Registration #, if known

Signature

Paul Cossman
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635085
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Signature

ANITA M. MOWERY
Print or type name

231 PETTIS, ANCHORAGE 99515
Address

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01252196
Voter Registration #, if known

Signature

Carolyn Philemonof
Print or type name

6253 E 4/1st Court
Address

/ / Check if registered voter

Voter Registration #, if known

George West
Signature

George West
Print or type name

2631 North Tahoti
Address

[ ] Check if registered voter

Voter Registration #, if known

Kim L Meier
Signature

Kim L Meier
Print or type name

353 East 23rd. Anchorage Alaska
Address

[X] Check if registered voter

Voter Registration #, if known

Larry L VanPatten
Signature

LARRY VAN PATTEN
Print or type name

1180 Pinion Wasilla Ak
Address

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Voter Registration #, if known

Carolyn Schmitt
Signature

Carolyn Schmitt
Print or type name

4999 Lake Otis Anch.
Address

[ ] Check if registered voter

Voter Registration #, if known

Malcolm Henry Jr.
Signature

Malcolm Henry Jr.
Print or type name

2625 N. Tahiti Ap.
Address

[X] Check if registered voter

900A1
Voter Registration #, if known

[illegible]
Signature

Rebecca Nall
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2111 North Tahiti
Address
99507

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Voter Registration #, if known

Signature

Lori A Leadman
Print or type name

2605 N Tahiti
Address

/✓/ Check if registered voter

2286889
Voter Registration #, if known

Signature

Kim T Patka
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Address

/ / Check if registered voter

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Signature

JOE FRANK
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ANC, AK 99507

/ / Check if registered voter

Voter Registration #, if known

Signature

Colleen Smith
Print or type name

2409 Tahiti Ct.
Address

/ / Check if registered voter

410 Freidly S
Voter Registration #, if known

Signature

Craig Nichols
Print or type name

Address

/ / Check if registered voter

Voter Registration #, if known

Signature

Venice Anderson
Print or type name

Address

/ / Check if registered voter

Voter Registration #, if known

Eddie F Nelson
Signature

Eddie F. Nelson
Print or type name

2635 North Tahiti #26
Address

Anch, AK. 99507

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Voter Registration #, if known

Steven P. Smalley
Signature

STEVEN P. IMACHI
Print or type name

P.O. Box 93463, Wasilla
Address

[ ] Check if registered voter

Voter Registration #, if known

Francie Patterson
Signature

FRANCIE PATTERSON
Print or type name

2610 N Tahiti
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Voter Registration #, if known

Dennis Arnold
Signature

Dennis Arnold
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Address

[ ] Check if registered voter

Voter Registration #, if known

Joan J Arnold
Signature

Joan Arnold
Print or type name

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Address

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—
Voter Registration #, if known

Paul H. Dilor
Signature

PAUL DILOR
Print or type name

2615 N. TAHITI
Address

[ ] Check if registered voter

Voter Registration #, if known

LLOYD V. ANDERSON **
LUANN E. BAILEY
SUSAN P. BEHLKE
RONALD G. BIRCH **
WILLIAM H. BITTNER **
KATHRYN A. BLACK
RODNEY B. CARMAN **
JOSEPH M. CHOMSKI **
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KIM DUNN
ERIC A. EISEN **
JOSEPH W. EVANS **
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HAL R. HORTON **
CAROL JOHNSON **
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PAMELA R. KELLEY
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*D. C. BAR ONLY
**D. C. AND ALASKA BAR
ALL OTHERS ALASKA BAR ONLY

April 17, 1986

The Honorable M. Mike Miller
Alaska State House of Representatives
P. O. Box V
Juneau, Alaska 99811

Re: Insurance Crisis Legislation

Dear Representative Miller:

While the Legislature may be under pressure to do "something", I sincerely hope that a patchwork of provisions are not hurriedly grafted into the somewhat delicately balanced civil justice system. The immediate problem facing the Legislature is the high price or unavailability of insurance coverage for some Alaska businesses. The insurance companies will not agree to lower rates or to make insurance more available even if the civil justice system is changed. Therefore, these changes do not help the immediate problem, and there is not a lot of sense in rushing to make the changes since they will adversely affect Alaskans' rights in return for nothing.

I do think that the insurance industry should be scrutinized. I read in the Sunday Anchorage paper that a spokesman acknowledges that the insurers make a profit in Alaska. It is hard for me to believe that if the forces of a free market were at work, truly competing insurers would raise their prices sky high when they were already making a profit because their competitors should take their business.

Since the insurance business in Alaska has been profitable even at pre-crisis rates, perhaps the State should get into the insurance business at least temporarily as a means of addressing the immediate problem. Other ideas are contained in the other two articles attached. In

any event, I would urge that the initial and primary thrust of any action be on the insurance industry since this is the only way to untangle and gain an understanding of the immediate problem of the high cost or unavailability of insurance which, again, will not be solved by changing the civil justice system even according to the insurers.

Some of the specific changes to the civil justice system being considered may have some merit, others make a shambles of the existing system and the values on which it is based. I would urge that careful study of the proposals be made in view of the already existing law so that if changes are made we end up with something balanced, consistent and comprehensive rather than patchwork. Two examples:

1. Non-binding arbitration of claims under $50,000. This could be beneficial. Many such cases settle anyway, and I wonder what the cost would be.

2. Changing the law of joint and several liability. This subject can be quite intricate and there are many fact variations that can be presented. Basically, it addresses the question of what happens when the acts of two or more wrongdoers combine to produce one injury to a person. Under the tort law of negligence, no wrongdoer is liable for injury unless his wrongful acts were a "substantial factor" in bringing about the injury and "but for" his acts, the injury would not have occurred. Perhaps in view of this, it has long been the law everywhere in this country, and I think elsewhere, that although an injured person can only collect once for his injury, he can collect from either of the wrongdoers whose acts were a "substantial factor" in causing his injury and "but for" whose negligence his injury would not have occurred. The law of "contribution" and "indemnity" then permit the wrongdoers to adjust the loss between themselves.

The intricacies and possible factual variations with respect to this subject have been carefully analyzed by the national promulgator of Uniform Laws for all states, and they came up with a uniform law designed to operate fairly in the multitude of factual situations that can arise. This has been in effect in Alaska since 1970, A.S. 09.16.

I would urge careful study before trying to change these laws. The proposals I have seen appear ill conceived.

Other provisions, such as mandatory payments over time (which are often employed anyway now where appropriate) would not affect insurance rates and would appear to require a bigger bureaucracy to administer.

Thanks for your attention to the issues.

Sincerely,

Lloyd V. Anderson

LVA:dw

April 16, 1986

Alaska Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Legislators:

My name is Paul Andrews. I live in Chevak, Alaska, and I was a passenger on a Hermans Air plane that crashed near Bethel last November. My leg is still in a cast and my back hurts all the time because I have crushed vertebrae. I live basically a subsistence lifestyle, occasionally finding work for wages. I haven't been able to work or to hunt or fish like I usually do and I don't know if or when I will be able to get back to it. My claim for compensation for my injuries is pending.

My attorney told me you are considering a bill to limit my possible recovery. A provision limiting non-economic damages, especially if it limited them to 25% of economic damages, would be especially hard on me because I do not earn big wages and most of my damage is "non-ecomonic".

Please don't limit my rights to seek compensation and justice. If you do, all rural Alaskans who will be injured in the future will also be hurt.

Sincerely,

Paul Andrews

Paul Andrews

(907) 586-3339

DOUGLAS L. GREGG, Esq.
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW
130 SEWARD STREET, SUITE 417
JUNEAU, ALASKA 99801

April 14, 1986

Honorable Mike Navarre
Chairman, Labor and Commerce Committee
Alaska House of Representatives
P. O. Box V
Juneau, Alaska 99811

Re: The Insurance Crisis and Tort Reform

Dear Representative Navarre:

I have practiced law in Juneau since 1959, am a former Assistant Attorney General, former Juneau City Attorney, and have a modest but respectable practice. Over the years I have handled a fair share of personal injury and a number of wrongful death cases for the victims and families of victims of negligence. I have no ax to grind because for the past year I have been gearing down to an even more relaxed practice, which obviously does not include a heavy litigation schedule. Nevertheless, I speak out strongly against legislation which would create a special class of people to be discriminated against: the victim of negligence.

As I wrote to Rep. Mike Miller a while ago, when you consider the many ideas afoot to alleviate the insurance crises, pause for a moment or two. In the life of a legislator many groups seek exemption. It may be from budget cuts, from taxes or the application of some law, rule or regulation. These requests for special treatment invariably involve money. The burden of one man's exemption is usually shared by all who pay taxes and is spread evenly.

Tort reform is different. It calls for payment by a class which already carries special burdens.

These Alaskans are a strange and pitiful lot. They are the brain-injured children struck by automobiles; the helpless passengers in the airplanes that should not have taken off that day; the pregnant women whose lives have perhaps been jeopardized by incompetent doctors; they are the maimed, the scarred, the blinded and the crippled. Include, also, in this group the survivors of those who were killed by acts of negligence.[1] Of all the people in society who ought NOT to be made to shoulder the burden of helping the insurance industry out of the doldrums, it is these survivors and these injured whom a jury has found entitled to recover.

---

1. I note that damages for the negligent killing of a person without dependents would be limited to $25,000 by the reform coalition. Why don't they say what they mean? They mean that $25,000 is the maximum payment for a child killed by a drunk driver. (That's less than some people pay for a car, a boat or even a horse.)

Today it is doctors who would deny the victim full compensation. But doctors are not the first nor will they be the last to seek emasculation of the legal system as a "quick fix." Ski areas, aircraft owners/operators, manufacturers of defective products, government entitities--these are examples of others who seek to limit their own liability. The one who will pay for that favored treatment is the faceless victim. I say "faceless" because we are speaking of the child, woman or man who does not know that tomorrow he or she will be chosen for tragedy. Tomorrow's victims are very real. They are as real as the awful numbers which measure the carnage. Since they have not yet been injured they cannot very well organize into a citizen's coalition.

The question you face is this: Will future maimed and injured Alaskans be made to pay, out of their compensation for injury, the cost of reducing insurance premiums?

Wealthy plaintiffs' firms are rare. Wealthy defense firms are well known in every major city in the State. The insurance lawyer is paid when he wins and he is paid when he loses. The Plaintiff's lawyer is only paid when he wins. The reason is simple: his clients cannot afford hourly fees. It is often hard to find a lawyer who will accept many of these cases--even at a 33-1/3% contingent fee. The coalition would reduce that fee even further. What a stroke of genius! It not only strikes a favorite target, the lawyer, but in so doing it also deprives the victim of representation.

I don't say there is no insurance problem. There surely is and for that reason all suggestions should be carefully considered--all but one, that is. You should reject out of hand the coalition's plans to undermine the common law tort system. You should steadfastly refuse to create a class of Alaskans whose ability to hire a good lawyer is compromised. You should vote "no" on legislation which would substitute the judgment of the legislature for the verdict of a jury as to what is fair compensation in any given situation.

The kind of "reform" I have been hearing about would be a high price to pay for the purpose of restoring profitability to an industry whose ethics (as well as profits) are in great doubt. I enclose a sampling of "twice told tales." These are some favorites of the news media--the Paul Harvey's of the world. Please take a few minutes to review the "rest of the story" behind these distortions. Thank you.

Very truly yours,

DOUGLAS L. GREGG

Enclosures
DLG:lb

The Association of Trial Lawyers of America February 19

The Facts Behind the Horror Stories

The insurance companies, which oppose injured Americans' right to a jury trial, try to ridicule juries by parading before the media the same 6 or 7 stories of what they call "outrageous verdicts." Some of these cases are 6, 7, or 10 years old and have nothing to do with the truly outrageous premiums sought by the insurers today.

Nevertheless, insurers tell the tales to mislead the public into believing that juries give huge sums to undeserving victims and that this is driving up the cost of insurance.

Except for the injuries to the victims, close examination shows, there is nothing horrible about these "horror stories." Here are the anecdotes . . . and the facts.

THE PERFUME AND THE CANDLE

Among those citing this case is Victor Schwartz, chief lobbyist in Washington, D.C., for corporate and insurance interests. On the network news show "Nightline," Schwartz said recently: "A woman in Maryland recovered money when perfume was poured on a lit candle."

The Full Facts: First of all, Schwartz neglected to tell viewers that this case was decided 10 years ago and has nothing to do with today's issues. Second, the final award to the plaintiff was about $30,000, hardly enough to break an industry with assets of more than $267 billion. Third, the perfume was not poured on a lighted candle.

Nancy Moran, 15, was visiting a friend of the same age. There was a Christmas candle burning in a saucer. To give the candle fragrance, the friend poured cologne from a drip bottle into the saucer, not on the flame. The heat of the flame ignited the vapors rising from the cologne. The burning vapors torched the perfume in the saucer, causing it to explode into flame. Ms. Moran was seriously burned.

The jury verdict in *Moran v. Faberge, Inc.* was upheld in 1975 by the Maryland Court of Appeals, which ruled that the defendant knew or had reason to know that the cologne might come close enough to a flame to explode. The same product, sold in a spray bottle, contained a warning not to use it near a flame. A woman applying the cologne could experience the same result if she were to light a cigarette.

Had the plaintiff poured the cologne directly on the flame, there would have been no case, said Martin Freeman of Bethesda, Md., who handled the case. His number is (301) 951-1610.

THE REFRIGERATOR AND THE BODY BUILDER

Forbes Magazine in a July 1985 article and syndicated columnist Ernest Conine last November, among others, have cited the case of the "41-year-old body builder [who] entered a foot race with a refrigerator strapped to his back to prove his prowess. During the race, he alleged, one of the straps came loose and the man was hurt. He sued everyone in sight, including the maker of the strap. Jury award: $1 million." The quote is from *Forbes*.

The Full Facts: The recitation of this 8-year-old accident is wrong on several counts. In *Columbo v. Trans World International*, the plaintiff, Franco Columbo, was a world-champion body builder. In 1976, he won the "Mr. Olympia" contest. In 1977, he agreed to participate in a television show, "The World's Strongest Man," produced by Trans World International Corporation and aired on CBS television. The other defendants were MCA, the parent company of Universal Studios, where the event occurred, and Zuver Fitness Center, Inc., the manufacturer of the equipment used by the plaintiff.

The event was to have 10 participants, all well-known athletes, competing in "off-beat" contests. One event was a refrigerator race. Each contestant was to walk or run 40 yards with a 400-pound refrigerator on his back.

Before the event, each contestant was given a written contract guaranteeing that all the equipment had been tested for safety. Zuver Fitness Center developed the contests and prepared the equipment.

Mr. Columbo was in the first of five heats. All the other contestants were more than 6' tall; Mr. Columbo is 5'6" tall, and all the defendants knew that fact. After he had run 7 or 8 yards, he fell when the rack to which the refrigerator was attached struck the ground. For someone of his height to lift the rack and refrigerator off the ground, Mr. Columbo had to bend forward deeply. This caused his center of gravity to be thrown off, and he collapsed. He suffered a total knee displacement. His injuries required extensive surgery.

At the trial, the chief engineer for Zuver admitted that (1) the equipment had never been tested by anyone Mr. Columbo's size, (2) the equipment had never been tested by anyone who had run with it, and (3) he had told Trans World officials that he didn't think the equipment or the race itself was safe. Other experts testified that it was not humanly possible to do what was expected in the contest. (After Mr. Columbo's fall, all the other contestants walked the race.)

In 1982, a Los Angeles jury awarded $1,036,760 and Trans World settled for $1 million. The company was not insured, so this amount had no effect on insurance premiums. And the plaintiff never alleged that the strap broke; in fact, the maker of the strap was not sued. Attorney George Royce of Los Angeles represented the plaintiff. His number is (213) 552-7868.

THE HOT-AIR BALLOON AND THE LAUNDRY

Forbes, in its July 1985 article decrying the so-called current liability crisis, gave this ex-

continued on page 2

More Facts . . .

continued from p. 1

ample of "absurdly generous awards: Two Maryland men decided to dry their hot-air balloon in a commercial laundry dryer. It exploded, injuring them. They won $885,000 in damages from American Laundry Machinery, which manufactured the dryer." This tale is repeated, virtually word for word, in many places.

The Full Facts: Horan v. American Laundry Machinery Industries was decided in 1979. Mr. Horan owned a 60-foot, nylon, hot-air balloon used by his advertising agency. When it became extremely muddy, he took it to a friend in the laundry business, who advised him that his equipment was too small to launder the balloon. They then went to a local hospital, where the equipment was designed for industrial purposes, and began to launder the balloon. The laundry extractor began to vibrate violently, causing it to blow up.

Mr. Horan was badly injured; his friend's hand was nearly severed, requiring microsurgery at Johns Hopkins Hospital. At the trial, it was proved that the company had a patent on a device that would have automatically stopped the machine if it vibrated excessively. Nevertheless, evidence revealed, the company had decided before the accident not to install the device.

A Baltimore jury awarded $1,260,000 to the two men. Samuel O. Jackson, Jr., now retired, represented the plaintiff. The phone number for Mr. Jackson's firm is (301) 539-6633.

THE HORSE AND THE PINTO

In a speech last December, Richard Willard, assistant attorney general for the Civil Division, U.S. Department of Justice, told his audience a story repeated in many quarters.

"An Oregon jury awarded $1.5 million in damages to the estate of a woman who was killed when a horse fell through the roof of her 1980 Ford Pinto. The horse had been spooked by wolves or coyotes and broke through a triple-strand, barbed-wire fence onto the highway. The horse was hit head-on by the woman's car, was knocked into the air, and fell down onto the hood and roof of the car. Although Ford argued that the accident was a 'one in a million accident,' and that no car could ever withstand the impact of a horse, the jury found Ford liable."

The Full Facts: In *Green v. Ford Motor, Co.*, a Portland, Oregon, jury found Ford liable because of weakness in the design of the Pinto's roof. In 1982, Mr. Green was driving his 20-year-old wife and their newborn baby home from the hospital when a horse stepped into the road. The car hit the horse. The animal slid across the windshield and roof. The roof collapsed. Mrs. Green was struck in the temple and killed.

The National Transportation Safety Board requires that a vehicle withstand 5,000 pounds on impact from a rollover, which is close to what happened to the Greens' car. A simulation of the accident proved that the Pinto could withstand only 3,800 pounds. Furthermore, Ford employees testified, records of vehicles that had failed safety tests had been destroyed.

In addition, Oregon records show, a horse is involved in an automobile accident there every three days. So, this is hardly a "one in a million accident." Most important, however, the car should have been able to withstand the impact of the accident. Millions of people depend on the crashworthiness of their cars.

In June 1985, a jury brought a verdict of $1.5 million against Ford. Ford has appealed. The plaintiff's attorney is J. T. Baisch of Portland. His number is (503) 226-3232.

THE DRUNK DRIVER AND THE PHONE BOOTH

The Wall Street Journal, in a December 1985 editorial, said, "A man is injured when a drunk driver crashed into a telephone booth and California Chief Justice Rose Bird rules that the company that designed the booth is liable." (Willard also has cited this case.)

The Full Facts: In *Bigbee v. Pacific Telephone and Telegraph Co.*, Chief Justice Bird, along with five of the six other justices on the California Supreme Court, ruled in 1983 that the issue of liability in this case should be decided by a jury. A summary judgment had been granted to the defendant by the Los Angeles County Superior Court, and the Supreme Court was simply sending the case back to the lower court for trial. Bird wrote for the majority: "Where a telephone booth, which is difficult to exit, is placed 15 feet from such a thoroughfare, the risk that it might be struck by a car veering off the street, thereby causing injury to a person trapped within it, cannot be said to be unforeseeable as a matter of law."

The booth, which had been hit at least once before, was "difficult to exit," because its door was jammed, and the plaintiff was unable to flee the booth when he saw the drunk driver bearing down on him. The seventh justice, incidentally, while dissenting in part, wrote that the summary judgment was "properly reversed" on the question of the jammed door. This case, although sent back to the lower court in 1983, never went to trial. A settlement in this 1974 accident was reached, but attorneys for both sides are under a court order—requested by the defendant—not to discuss the amount. The plaintiff's attorney is Thomas Cacciatore of Los Angeles. His number is (213) 380-6330.

THE BURGLAR AND THE SKYLIGHT

The Wall Street Journal editorial stated, "An insurance company is ordered to pay $260,000 plus $1,500 a month to a plaintiff when he fell through a skylight while burgling a school."

The Full Facts: The insurance company in *Bodeine v. Enterprise High School District* was not ordered to pay anything; the case was settled. The man involved, Rick Bodeine, 19, had graduated from the high school in 1981. In 1982, as a lark, he and two friends tried to take a floodlight from the roof of the school to light

New "M" Club Members

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Leonard E. Moffitt
Box 748
Palmer, Alaska 99645

April 15, 1986

House Judiciary Com.

TORT RETORT

This is in reference to just one proposal in Brad Bradley's report on tort reform, Anchorage Times, April 2, 1986.

That proposal for tort reform is, "Require that a lawsuit be filed within two years of the date of the act or omission on which the complaint is based." The proposal looks good on the surface but thought and history should tell us that it is counterproductive.

About eight years ago it seems that many people, for their own reasons, prodded the legislature into requiring that lawsuits for malpractice be filed within two years of the act or omission. Some professionals were so adamant that the two-year limit was the great cureall that we probably thought opponents deserved some malpractice. However, it seems clear that if one just suspects receipt of maltreatment, one would be foolish not to file suit to be on the safe side of a two-year limit.

Doctors may have improved their work habits tremendously, eliminated any thought of patients as guinea pigs, and improved their patient-doctor attitudes, but yet, find themselves again faced with an insurance rate emergency.

Possibly many of the "safe side" suits that are brought before the two years are up could be called frivolous, but they may be brought to beat the two-year deadline just in case there is a real problem later. Then insurance companies possibly settle many of the "safe side" suits out of court and pass the loss to doctors who must pass it to patients through higher medical bills.

Even with a two-year limit, some may wonder if they should take their lawyer along when they visit a doctor. More time seems necessary for correction, healing and compromise. It might make more sense if suit could not be brought until after two years.

I would guess, the six or more years statutes of limitation had a reasonably sound basis and would appear to still have.

Sincerely,

Leonard E. Moffitt

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SUSAN P. BEHLKE
RONALD G. BIRCH **
WILLIAM H. BITTNER **
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Writer's Direct Dial No.
(907) 263-7225

April 15, 1986

The Honorable M. Mike Miller
Alaska State House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Miller:

A provision has been amended into CSS SHB 532 limiting "non-economic" damages in civil actions to 25% of economic damages. This position will drastically affect the rights of many Alaskans, including especially "Bush" residents, retired persons, non-working housewives, and victims of certain types of injuries such as Dalkon Shield victims. I hope you will take the time to read my letter to Senator Faiks, copy attached, explaining my concerns.

Sincerely,

BIRCH, HORTON, BITTNER,
PESTINGER AND ANDERSON

Lloyd V. Anderson

LVA:sb

Attachment

LLOYD V. ANDERSON **
LUANN E. BAILEY
SUSAN P. BEHLKE
RONALD G. BIRCH **
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**D.C. AND ALASKA BAR
ALL OTHERS ALASKA BAR ONLY

April 15, 1986

The Honorable Jan Faiks
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Faiks:

Thank you for your response to my message concerning the insurance crises. A new proposed provision capping non-economic damages to 25% of economic damages which I have recently seen as an amendment to CSS SHB 532 prompts me to comment further. In addition, I intend to respond to the other issues you raised in a separate letter.

Capping "non-economic" awards has the most impact on the poor, Alaska Natives and other subsistence style livers, non-working housewives, and on victims of certain types of injury, such as Dalkon Shield victims. Juries now can evaluate and compensate an Alaska Native for the loss of ability to pursue a subsistence lifestyle. Under the provision which caps non-economic damages at 25% of economic damages there would be major differences in how similarly injured people are treated, depending on their lifestyles and wage levels. For example, assume a plane crashes due to gross pilot error. Three passengers receive identical injuries totally disabling them for the rest of their lives so that they cannot work, play, hunt, fish, or function effectively. All have $100,000 in medical bills.

Passenger 1 - Alaska Native Subsistence Lifestyle - Age 32
Lost Wages = 0
Medical Bills = $100,000
Economic Damages = $100,000
Non-economic Cap = $25,000
Total Award = $125,000 with $100,000 having to be repaid to ANS

Passenger 2 - Retired Person
Lost Wages = 0
Medical Bills = $100,000
Economic Damages = $100,000
Non-economic Cap = $25,000
Total Award = $125,000 with $100,000 going to doctors or health insurer

Passenger 3 - North Slope Worker - Age 32
Lost Wages = $70,000/year to age 65 (33 years) = $2,310,000
Medical Bills = $100,000
Economic Damages = $2,410,000
Non-economic Cap = $602,500
Total Award = $3,012,500 with $100,000 going to health insurer

I am opposed to a cap on non-economic damages since juries function effectively and non-economic awards are necessary to compensate some types of injured people. Further, courts have the power to reduce juries' awards, and this has been done in many of the larger awards of punitive damages we all have heard about. See attached excerpt. The proponents of change are conducting a well-orchestrated campaign, but it rests on misrepresentation, half-truths and sensationalism. Attached is an article about the actual trend of verdicts.

Clearly, if any cap were to be legislated, it should be a uniform monetary one, not a percentage cap which treats the pain and suffering of people of different economic stratas differently. If a cap must be considered, I would urge you to set it in a monetary amount high enough to allow reasonable compensation for those types of people who will be injured and whose main damage will be non-economic. For example:

1. Alaska Natives and others who live a subsistence lifestyle;

2. Retired persons who may be injured so that their ability to enjoy their retirement is taken from them;

3. Housewives who do not work out of the home or work only part time;

4. People who are severely burned, disfigured, or in pain; and

5. Victims of recklessly marketed products such as the Dalkon Shield. These women have in many instances lost their insides, their childbearing capacity, and their

emotional well-being, all "non-economic" damages, while their "economic" damages may be relatively small.

I can foresee situations in the future where people will be injured and the originally-proposed cap of $250,000 will seem inadequate. In arriving at a cap, if you must, I urge you to consider the worst injury you can think of to one of the above types of people, and set the cap in view of that. Lesser injuries, I am sure, would never reach the maximum, but I would hope that the ability to have some degree of fairness for the most severely injured of the above types of people would be left in our system.

Sincerely,

BIRCH, HORTON, BITTNER,
PESTINGER AND ANDERSON

Lloyd V. Anderson

LVA:sb

Excerpt on Remittitur

The courts already have the power to control jury verdicts by ordering remittitur. This has been used in Alaska and elsewhere.

In Sturm, Ruger Co. v. Day, 594 P.2d 38 (Alaska 1979), a jury had awarded $137,750 as compensatory and $2,895,000 as punitive damages. The Supreme Court reversed finding the award excessive. They said:

> If essentially the same evidence is presented at the second trial, and if the jury award exceeds $250,000, the court should then exercise its power to grant remittitur in accordance with this opinion.

In the famous Pinto exploding gas tank case, a jury awarded $125,000,000.00 in punitive damages. The court ordered remittitur to an amount equal to the compensatory damages of $3.5 million.

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April 10, 1986

RE: The Recent Amendments to the Tort Reform Bill

Dear Representative:

I am writing you as an attorney who practices personal injury law to a great extent. Our law firm represents many people who have been the victims of negligence and have received serious injuries. I am writing with reference to the amendment proposed which would limit compensation for pain and suffering or nonecomomic loss to 25% of the economic loss. I would like to illustrate these comments with two examples.

This office represents Linda Bennett in a lawsuit arising out of an accident which occurred on June 21, 1985 at the intersection of the Old Seward Highway and Tudor Road. She was riding as a passenger in a vehicle which had stopped southbound on the Old Seward Highway on the inside lane of traffic. At that time she was seated in the passenger seat and, since it was warm weather, had the elbow of her arm resting on the ledge of the open window. At that time the defendant truck driver, Lloyd M. Flanery, who was working for Rabbit Creek Trucking, Inc., struck a light pole with his truck. As a result the light from the pole broke loose and fell a great distance landing on her outstretched elbow. The impact resulted in a smashing fracture of the bones in her elbow. She still experiences great pain from the disability which she has in her right elbow. She is right-handed and is presently receiving cortisone shots for pain.

Linda Bennett is legally blind and is currently a student at Whittier College in Whittier, California. Enclosed with this letter are copies of articles written about her. As you can see Linda Bennett, even though she is legally blind, starred on the Chugiak High School's soccer team when she was in high school.

Her total medical expenses with regard to this accident. are approximately $4,000.00. She has experienced no loss of income because she is a student. The permanent disability to her elbow will not, in all likelihood, prevent her from working for a living. She will, however, in all probability, endure substantial pain and suffering from this injury for the remainder of her natural life. She will also, in all likelihood, be prevented from engaging in active sports which she has enjoyed in the past, even though she is legally blind.

Under the current amendment to the proposed "Tort Reform Bill" Linda Bennett would be entitled to recover in her lawsuit approximately 25% of her medical expenses or, the amount of $1,000.00.

The other case involves a much smaller claim but also amply demonstrates the extreme injustice presented by this 25% formula. Scott Whittaker is employed at the Forest Lawn Mortuary in Anchorage. On November 3, 1985 he was driving home and was involved in an automobile accident with Lisa Wirshem, who crossed the centerline and collided with Mr. Whittaker's Toyota automobile. Mr. Whittaker hit his head on the steering wheel and, as a result, his two front teeth passed completely through his lower lip. He was taken to Humana Hospital where he was treated as an out-patient and underwent surgery on his lower lip. Sutures were taken in both the inside and outside of his lower lip. He had to return so that the doctor could take out the stitches. He has a permanent scar as a result of this injury on his face. He did not lose any time from work and his medical expenses are approximately $220. Under the 25% formula contained in the proposed amendment to the tort reform bill, Ms. Wirshem's insurance company, Nationwide Insurance, would be required to pay Mr. Whittaker's doctor bills in the amount of $222 and would furthermore be required to pay Mr. Whittaker $55 for the injuries sustained in this accident.

From the above it can be easily seen that the passage of the tort reform act in its present form would result in a tremendous windfall profit to the insurance industry. Both of the above cases involve automobile insurance in which there currently is no

"insurance crisis."

There has been much talk about the fact that the "insurance crisis" has in fact been caused by poor investments by the insurance companies themselves rather than by "runaway jury verdicts." I would like to point out to the members of the Alaska Legislature the enclosed letter dated March 17, 1986 regarding an insurance cost comparison for 1985 and 1986. This involves the "N Street Plaza" Condominium Association of which my office is a member. Our office occupies Suite 202 of this two-story building. In 1985 we paid $2,699 for liability insurance and $5,252 for coverage for earthquake and flood. The proposal for liability insurance for 1986 was $4,405 or an increase of approximately $1,706. The "earthquake/flood" insurance premium went from $5,252 to $20,000, an increase of $14,748. I think it should be apparent to the Alaska State Legislature that earthquake/flood claims are not affected by "runaway jury verdicts." There certainly have been no such absurd jury verdicts in the past year in Alaska to justify this type of increase. I frankly do not know what is the justification for this increase but this jump in insurance premiums will not be affected in any way by the "tort reform" statute presently before the Legislature.

The proposal to amend the tort law in Alaska to reduce insurance premiums is simply absurd. The proponents of this legislation have not cited any instance where a "runaway jury verdict" occurred in Alaska or in fact any instance in Alaska or in fact any instance in Alaska where someone has received a jury verdict in an unreasonable amount. I do not but I suspect that the insurance industry has not provided the Legislature with any premium/loss comparison which occurred in 1985 to justify the sharp increase in insurance premiums. The current legislation will result in a huge windfall to the insurance industry. I strongly urge you to reject this bill.

Very truly yours,

KENNELLY, AZAR & DONOHUE, P.C.

William J. Donohue

WILLIAM J. DONOHUE

db

M Street Plaza
Condominium Association

DATE: March 17, 1986

RE: Insurance Cost Comparison
1985 vs. 1986

The following is a cost comparison between actual insurance premiums paid in 1985 and estimated premiums for 1986.

SUITE:	1985 LIA: $2699.00 E/F: $5252.00	1986 LIABILITY $4405.00		1986 EARTH/FLOOD $20,000.00		
101	$ 854.73	$ 473.54	+	$2,150	=	$2623.54
102	741.03	410.55	+	1,864	=	2274.55
103	671.06	371.78	+	1,688	=	2059.78
104	554.18	307.03	+	1,394	=	1701.03
201	1,040.79	576.61	+	2,618	=	3194.61
202	763.30	422.88	+	1,920	=	2342.88
203	565.32	313.20	+	1,422	=	1735.20
204	565.33	313.21	+	1,422	=	1735.21
205	547.82	303.50	+	1,378	=	1681.50
206	547.82	303.50	+	1,378	=	1681.50
207	635.28	351.95	+	1,598	=	1949.95
208	464.34	257.25	+	1,168	=	1425.25
TOTAL PREMIUM:	$7,951.00	$4,405.00	+	$20,000	=	$24,405.00

As you will note from the above calculations:

FIRST COLUMN: Actual premiums paid in 1985 based on BOTH Liability and Earthquake/Flood

SECOND COLUMN: Premiums TO BE PAID for LIABILITY ONLY

THIRD COLUMN: Premiums TO BE PAID for EARTHQUAKE/FLOOD ONLY

FOURTH COLUMN: TOTAL PREMIUM if Association PAYS BOTH Liability and Earthquake/Flood

821 "M" Street Anchorage, Alaska 99501

Blindness will never dim her brilliance

By MARTHA ELIASSEN
Daily News reporter

The soccer ball sails toward the sideline and, at a signal from a teammate, Linda Bennett goes after it. She scoops up the ball and hurls it halfway down the field, back into play. Within seconds, it's slammed home to make another point for Chugiak High School.

Throw-ins are a Linda Bennett trademark; her teammates on the Chugiak soccer team say her ability to throw the ball great distances accurately has been like a secret weapon.

But there are no secret weapons in Bennett's biggest battle: her fight with blindness. Now that soccer season is over, Bennett spends most of her day in an Anchorage classroom, learning to read braille, to walk with a cane, to use a computer that helps sightless people communicate with the rest of the world.

Bennett, 18, is legally blind, a victim of a rare eye disorder that has robbed her of all but her peripheral vision. At a time when most young people begin to enjoy their freedom, she has had to come to terms with her increasing dependency on others.

She has tackled the adjustment with the same determination that she has always given to school work, athletics and everything else in her life.

"I just find other ways to do things," she says quietly.

Bennett is an athletic young woman with muscular arms and legs that attest to years of soccer, volleyball and other physical training. She has long, dark-brown hair and olive skin. Her greenish-brown eyes make contact with others when she speaks, as if to deny their injury.

Her vision is 20/200 in each eye, which means she can see at 20 feet what most people see at 200. When she looks straight ahead, her vision is blocked, as if by a barricade.

"It's big and dark and cloudy," she says.

One of the hardest adjustments has been that she can no longer drive a car. "I really wish I could drive — *all the time*," she says. And when she goes out with friends to a fast food restaurant, she can't see the menu above the counter. "I just order a cheeseburger, french fries and a diet Coke every time, if I'm not sure."

Until two years ago, Bennett's vision was normal. But toward the end of summer in 1983, she started having trouble with her left eye. One day she held her fist in front of her body and it disappeared, as if lost in a wrinkle in the screen of her vision.

When the problem persisted, her parents took her to an ophthalmologist who found hemorrhaging inside her eyeball. But he could find no reason for the bleeding, and referred the Bennetts to other doctors in town, who, in turn, referred them to specialists in Seattle.

In all, there have been about 10 doctors so far. "We didn't stop at the first answer," says Bennett's mother, Shirley. "If you talk to the doctors, some think we were utterly ridiculous to take her to as many as we did. But we would do anything, if it would help."

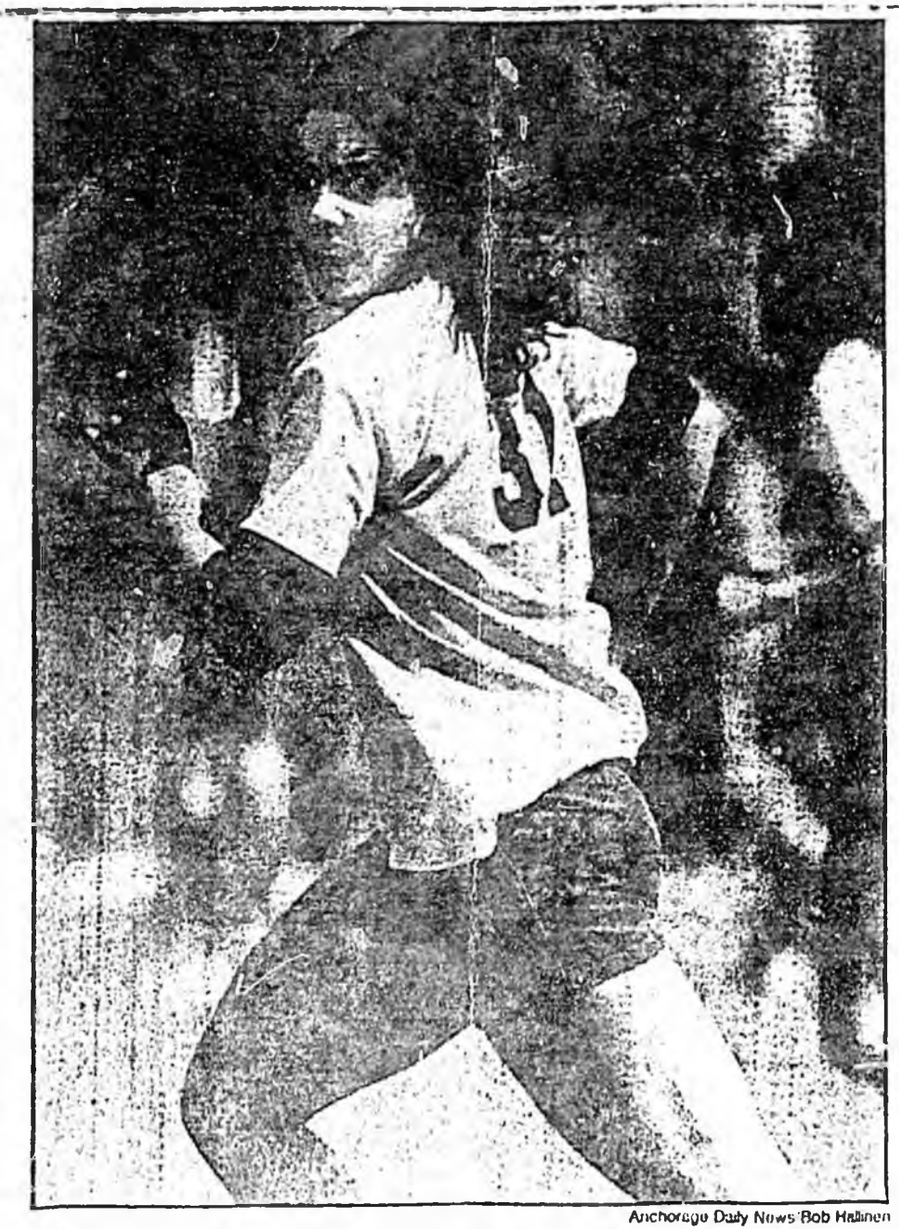
Soon after the hemorrhages in her left eye were found, similar bleeding began in her right eye.

The technical diagnosis was subretinal neovascular hemorrhaging, a term Bennett rolls off of her tongue with ease.

What it means is that, for no known reason, blood vessels usually confined to the back of the eye grew through a weak spot in her retina. Then, the abnormal growth began to bleed and to form scar tissue.

The condition is a common cause of blindness in adults over 50, but

See Page E-2, BLINDNESS



Anchorage Daily News/Bob Hallinen

Linda Bennett starred on Chugiak High School's soccer team.

Blindness comes suddenly, doesn't change young woman's determination to excel

Continued from Page E-1

it's virtually unheard of in young, healthy people, says Dr. Scot Brower, Bennett's Seattle ophthalmologist.

As if losing her vision wasn't enough to accept, the doctors dealt her one of the hardest blows of all. Worried that physical activity might aggravate the bleeding, they told her she had to give up sports.

"At the beginning, I got really depressed because I couldn't do anything," she says. "I just ate and got fat and wondered what I was going to do with the rest of my life."

on her windows to the world.

In January, Dr. Brower wrote: "At the present time, Linda is felt to be beyond the point where any additional therapy will be helpful ... she is visually impaired and will remain so."

After two years, the news wasn't a surprise, and it wasn't allowed to interfere with the rest of Bennett's life. In addition to her athletic accomplishments, Bennett graduated from Chugiak High School with a 4.0 grade average. She was awarded a four-year scholarship at Whittier College in California.

"When I was little and went out for sports or anything, my parents would never let me quit," she says. "I just carried that on."

"She's a strong person," her mother says. "We're real proud of her."

Dr. Brower says Bennett has adjusted to her vision loss better than anyone could have hoped. "I don't know how she does as much as she does. She is really an inspiration to me."

This summer, at her mother's urging, Bennett is attending classes at the Sensory Impairment Center in Anchorage to refine her braille reading and learn other skills that will help her cope with blindness.

"None of that stuff thrills me," she says with a sigh — a teen-ager's typical "Oh, Mother" sigh.

But her mom says she hopes these skills will help when Bennett goes to college this fall, away from all of the people who have learned how to help her. Although doctors say she'll probably retain her peripheral vision, her mother wants her to be prepared.

As for what course of study Bennett will pursue or what she wants to do with the rest of her life, she says she doesn't know. The future holds a lot of questions and few answers.

At one time, Bennett wanted to become a doctor, but she's not sure about that now. She's also considered a career in counseling.

"I just keep thinking, I can still do anything I want to do."

☐ Editor's Note: Shortly after this story was written, Linda Bennett was in a car accident that left her with a compound fracture of the right arm. The timing couldn't have been worse; Linda was scheduled to play in the Junior Nationals Volleyball Tournament in California this week. But even though she couldn't play, Linda, her arm in a cast and pain pills in her purse, insisted on accompanying the team.

Her mother, Shirley Bennett, wasn't happy about letting Linda go, but decided the trip might be good medicine. "I kept saying, why her? Hasn't this poor kid been through enough? Maybe it's because she bounces back so well."

Shirley Bennett remembers the pain of watching her once-active daughter sit around the house, quiet and miserable. "It's a hard thing to put into words," she says with a catch in her voice. "I — I wished it was me instead of her. It was hard to deal with."

Gradually, Linda Bennett says, she adjusted. She still hoped that her eyes would somehow get better, and she had plenty of support at home and at school.

"I had friends who kept me going — Helen Keller jokes and all that," Bennett says.

Linda Bennett undaunted by adversity

By JOHN HOTZFIELD
Of The Star Staff

Chugiak High School senior Linda Bennett's enthusiasm about what the future holds is understandable for an ambitious young lady who is about to make the transition from high school to college.

What makes Bennett's positive outlook unique is that in the last 18 months she has been losing her sight from a growing visual impairment that the doctors can do nothing about. The blood vessels in her eyes have hemorrhaged, blocking her central vision and she can now only see out of the sides of her eyes. She is legally blind.

Linda Bennett is a portrait of courage, hope and encouragement.

The problem started for the Chugiak senior, who just finished the volleyball season as the team's co-captain, 18 months ago when she held her fist out in front of her body and was unable to see it. At the time a family friend who is a doctor advised her to wait a couple of days and if it continued to get medical help immediately.

Doctors noticed that the vessels in her right eye were hemorrhaging and causing her to lose her vision. The question of surgery came up but it was decided to wait and see what would happen without surgery. Things grew steadily worse and Linda lost most of the vision in her right eye. When her left eye started doing the same thing, it was decided to have immediate "laser photocoagulation" surgery performed in an effort to save this eye.

A year ago in March, the first surgery was performed and things got immediately worse. "It was really depressing," recalled Linda this week. "I wondered what kind of a career I could have."

The next six months were stagnant as far as any progress on the mysterious cause of the eye impairment and then things started going bad again. A second surgery was performed under the direction of Dr. Scott A. Brower of the Virginia Mason Clinic in Seattle this past October. The results were again not very promising for the 17-year-old daughter of Boyd and Shirley Bennett of Eagle River.

When Bennett had the bandages unwrapped from her eyes she didn't know whether she would ever see again. It was at this point she wrote a poem reflecting the sturdy, determined character within her:

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

THROUGH MY EYES
By Linda Bennett

The world is not all there. . .
Pieces are missing.

Tiny blood vessels began to grow
and sight was distorted

Then they hemorrhaged
and sight began to disappear

Faces. I could no longer see
The world was growing dark

Surgery: needed or not?
Stop the blood vessels' network of growth

Laser was used, lights, shots, dye
I could only see less

Vessels grew again
What to do?

Laser again
Would I be able to read?

Look to the Lord
"Lord, nothing is going to happen
to me today that you and I together
Can't handle

I am happy
I am alive
I can walk
I can talk
and I can still see
God is good to me.

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

In December came the final laser photocoagulation. The ophthalmologists from the Mason clinic, as well as Dr. L'esperance from New York, can not find the cause of the impairment and she was released with a vision of 20/100. Since then Linda's sight has become worse and she now has 20/200 vision.

Through it all, Linda has maintained a positive attitude and is determined to go on to college and begin a career in sports medicine or counseling.

How does she do it? Linda cites three things: God, her parents and her friends and teachers. She said she looks to "God and the Bible . . . and the things He says in it." Linda attends Eagle River First Church of God where she also sings in the choir.

Another important motivation for Linda has come from her parents. "My parents would never let me quit if I started something, so I've always kept going," she says.

She also is thankful for her friends and her teachers who have stayed with her to help her in her studies. She is learning Braille from Mary Lee Miller each day. Miller works for the Anchorage School District as a teacher of visually impaired students.

What made Linda an exceptional student only makes her that much more exceptional now. She has always maintained a 4.0 grade point average and that hasn't changed even in her senior year while going through all the treatment on her eyes.

She has lettered in varsity volleyball every year since being a freshman and that hasn't changed as she served for the second year in a row as captain of the team. The Mustangs ended their season this week in the Region IV Tournament. Last year she was voted the Most Valuable Player of the team and as a freshman she was voted the "hardest worker." She also qualified for the junior national volleyball team last year as well as this year and plans to go to Davis, California in June for 10 days to compete with the team.

She is a stand-out player on the girls soccer team and plans to play this spring to earn her third straight letter in that sport. As a freshman and again as a junior, Linda earned the title "most inspirational." Last year she helped lead the Mustangs to a first place tie in the Anchorage regular season standings.

Linda's achievments don't end in the sports department, however. She is among the top three percent of U.S. students in her scholastic achievments. She has been selected for Who's Who among high school students. She is in the U.S. Directory of Distinguished Students. She has served as vice president of her class two years. She is active in the HUB Club and Soccer Club. She is a member of the Honor Society. Her list of achievments goes on.

Sally Callaway, who has counseled students at Chugiak High School for 16 years, finds Linda to be a uniquely well-balanced person. "She is a very honest, genuine person. She always bounces back," said Callaway who has worked closely with Linda. Callaway also described the student as "quiet, reserved, determined, happy, pleasant, warm and active."

"Her bounceback is tremendous," stresses Callaway.

Mary Lee Miller, who has been working with visually impaired and blind students in the school district for four years, feels that Linda is very special. "I have a high regard for Linda. She's not going to let this get her down," said Miller.

Linda Bennett, who despite failing eyesight is hoping to gain a scholarship to play volleyball in college after she graduates from Chugiak High School. STAR PHOTO BY JOHN HOTZFIELD

Miller pointed out one recent incident where Linda showed her determination. She had a book report due for her Criminology class and had to sort through 70 articles to gather the information she needed. Miller said Linda set her mind to accomplishing the task and did an excellent job. "She is not only going to do it, but do an exceptional job of it. That's the type of person she is," said Miller.

Miller said Linda is overcoming two very hard areas. The fact that Linda is going blind gradually (although doctors feel she won't go totally blind) is a lot harder for someone to accept than if it all happens at one time says Miller. She said Linda's overcoming attitude just won't allow her to get down. "She's not bitter but very positive."

The other area that is hard is the timing of the loss of vision. Miller feels that the transition from high school to college are the hardest years in a person's life. But Linda is taking everything in stride and is looking with hope to the future.

"At first I didn't think I would be able to do anything, but now I'm going to plan on playing volleyball in college," shares Linda.

Monday a representative of Whittier College in California came up to talk with her. She is one of 30 finalists selected from among 200 applicants for five full scholarships. Linda has also been accepted to the University of Redlands in California and Whitworth College in Spokane, Washington.

Linda also recently learned she has been selected to receive the Elmendorf Officer's Wive's Club Scholarship of $1500. Linda has had to give up her original plans of becoming a doctor but maintains her desire to want to help others. "I want a career to help other people. So many have helped me," she said.

Linda's other desire is to be active in athletics. She said she has been playing sports as long as she can remember and wants to continue. She has been able to handle volleyball real well but is a little unsure of soccer this spring for the Mustangs. "Soccer is going to be difficult, but I'm going to try."

And that explains Linda Bennett in a nutshell: a young lady who just wants to try. In an article written by her Junior National Volleyball coach published in the U.S. Volleyball Association's magazine, Virgil Hooe wrote that she is "an individual who is constantly positive with her teammates, who is the first to raise her expenses, who is the first to make sacrifices and play any position to help her team. This person is an excellent student, an accomplished soccer player, and a leader in school activities."

Hooe adds, "What you see with a sharp image, try squinting your eyes almost shut, and that is the image that she can see. Try passing a volleyball, digging, or hitting with that kind of vision. In fact, try living a remotely reasonable normal everyday life with that kind of eyesight. Linda does. And, I'll tell you that she does it very well. She does not give in. She does not want to be an exception at practice or anywhere else. She has to perform at a level at least 100 percent above that of her peers at practice just to compete. And she does it without complaint, where I would be hard pressed just to remain sane."

In the Bible which means so much to Linda, Hebrews 11:1 says, "Faith is being sure of what we hope for and certain of what we do not see." Linda Bennett IS faith.

A PROFILE IN COURAGE

It seems that everytime that I pick up a newspaper or watch a major sporting event on TV, there is a story being told of some athlete that has shown unusual courage or community service. These stories constantly flow over national media to Alaska. Stories of human sacrifice and a willingness to overcome great odds just to compete. With all of this attention to outside individuals, we sometimes tend to forget that we have individuals like that right here in Alaska. People who don't want attention, just the ability to compete without pain. People who care about the teams that they play on and the individuals that they compete against, and wish that they did not have the handicaps that life has saddled them with. People who might be wondering why they have been chosen to compete on a daily basis with those individuals who have healthy bodies but don't realize just how fortunate they are..

I have been very fortunate to coach an athlete the last two years on the USVBA's Junior National Volleyball team who has been willing to pay what ever price I have asked of her just to see her team and the program succeed. Any coach that she has ever had, agrees that she is a super individual to coach. An individual who is constantly positive with her teammates, who is the first to raise her money, who is the first to make sacrifices and play any position to help her team. This person is an excellent student, an accomplished soccer player, and a leader in school activities. So what's the big deal. The big deal is that this young lady does all of this while afflicted with a rare eye disease that is uncurable and has reduced her eyesight to a point of becoming legally blind. What you see with a sharp image, try squinting your eyes almost shut, and that is the image that she can see. Try passing a volleyball, digging, or hitting with that kind of vision. In fact, try living a remotely reasonable normal every day life with that kind of eyesight. Linda Bennett does. And, I'll tell you that she does it very well. She does not give in. She does not want to be an exception at practice or anywhere else. She has to perform at a level at least 100% above that of her peers at practice just to compete. And she does it without complaint, where I would be hard pressed just to remain sane. I get especially angry when I see other athletes that I coach in different sports, athletes that have a sound body, not use that ability and not care either.

However, I know that Linda does not want to be treated differently, nor does she want me to direct my anger and frustration for her to others who have more fortunate circumstances, but do not care. But, I think her story should be told, so that more people than her teachers or coaches can appreciate the effort that some individuals go through just to try, if only to try. I think that we all could learn something from her.

Virgil

Virgil Hooe
Commissioner,
U.S.V.B.A.

3234 Linden Dr.
Anchorage, Alaska 99502
April 23, 1986

Alaska Legislature
Juneau, Alaska 99801

Re: Tort Reform

Dear Legislators:

I am writing to inform you that I am opposed to the tort reform legislation which is now pending in the legislature. I believe it will have little or no impact on insurance rates. The insurance industry is cyclical in nature and perhaps reform needs to address that issue somehow.

I am particularly concerned about the limit [illegible] and suffering award to a person injured needlessly due to the negligence of another individual or company. While it is true that courts and juries often seem to make excessively high awards to individuals making a claim, and while it is also true that people seem to not have just plain accidents anymore and they seem not to accept that sometimes we are just clumsy or careless and it is nobody's fault, we must still leave available to the person truly injured due to the negligence of another the possibility of a large monetary award as compensation for their injury and loss.

Limiting a pain and suffering award to a percentage of actual damages is blatantly unfair. A person with a lesser salary would then be perceived to suffer "less" of a loss even though his/her injury might be severe enough to alter his/her life radically. Perhaps there is very little time lost from work even though the injury is severe and lifelong.

I am a dalkon shield victim. This IUD caused me to have pelvic infection severe enough to damage my fallopian tubes which, in turn, caused me to have an ectopic pregnancy while wearing the dalkon shield. The ectopic pregnancy further damaged my reproductive organs. I, fortunately, was able to have one child, but the scar tissue and damage continued to cause persistent medical problems involving my female organs. I spent several years trying to become pregnant again and exhausted all

infertility treatment available to me locally. And, earlier this year, I had to have all my female organs removed in emergency surgery. Needless to say, I will never have another child.

This damage was caused to me by the negligence of the company which marketed the dalkon shield. They were aware of the possible consequences to women wearing this IUD, but did not let me know of these possibilities. I can only conclude that they had a blatant disregard for my health and my life. Had I been informed of the possible health risks, then perhaps I would have to take responsibility for the consequences of my decision, but there was no possible way for me to make an informed decision because the information was kept from me.

I haven't lost a lot in wages and my medical expenses were pretty much covered my insurance. Do you actually feel that I should not be compensated for my loses? How do we put a price on the ability to bear a child? How am I to be compensated for health consequences of not having ovaries to provide my body with hormones the way nature intended? How do we prevent this particular company and others who may be planning to follow their example from perpetrating this kind of fraud and misrepresentation on the public?

If they must pay me $2,000, it's a drop in the bucket and they go out and do the same thing again. If they must compensate me $200,000, they will certainly think a little more about it. If I am awarded $1,000,000, perhaps this company will alter their way of doing business. None of this will change my health or my ability to have a child, and I don't know what the ramifications of the dalkon shield related problems will be for me in the future. But perhaps this money will make my life easier in some other way. If it had come in time, perhaps I could have become pregnant by invitro fertilization which I did not have the money to try. Perhaps it will help me to be able to adopt a child somehow. I don't know if I will ever be compensated for my losses, but I certainly want to have a judge or jury determine that for me. I don't want an across-the-board law preventing me from seeking reasonable and effective redress.

As a voter and concerned citizen of Alaska, I ask you to vote against the tort reform now before you.

Sincerely,

Gretchen Anderson

Gretchen Anderson

At 21 years of age an oil field accident involving shoddy equipment devastated my life. I lost my right leg & have severe damage to my pelvis & right hip muscles. In deciding my libility case 10 years of ballet dancing, 7 years of tap dancing, & a whole life of outdoor activity, had to compensated for in my opinion!

The 3 years of pain, morphine withdrawal six operations, & emotional trauma, & the changes my lifestyle have gone thru are only partially compensated for in the award given me by the judge! Do not be unfair to someone who might get injured sometime in the future. Leave the tort system alone!!

Thank You

Forest Tisdale

1331 Primrose
Anchorage, Alaska 99508
March 28, 1986

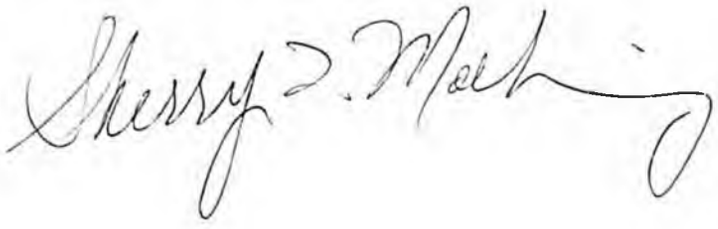
Representative M. Mike Miller
Alaska House of Representatives
Box V
Juneau, AK 99801

Dear Representative Miller:

Four years ago, my mother was killed by the driver of a heavy truck, who thoughtlessly crossed into her lane and threw her car off the road. I have watched the debate over tort reform, and see HB 532 for what it is, an attempt to take away the rights of accident victims and their survivors. This will not lower insurance costs, but will only harm the efforts of those who try to bring wrongdoers to justice. Oppose all such legislation.

Very truly yours,

(Mrs.) Sherry Moehring



Alaska Legislature
Juneau, Alaska

Dear Senators and Representatives:

I am writing to give you a victims view of "tort reform." My name is Tamio Hirose and I used to be a Japan Airlines pilot. While in Alaska in 1974, I was a passenger in a car accident and I was paralyzed from the neck down. I can never work again and I need someone to help me in most of the normal functions and activities of life.

Through Japan Airlines, I was referred to Alaska lawyers who agreed to help me on a contingent fee basis. They determined that I had a claim against General Motors who made the car I was a passenger in, because they thought the car would unexpectedly spin out when the brakes were applied hard in an emergency as it did in the accident. They thought that a crucial valve had been left out of the 1972 Caprice even though the General Motors Manuals said it was there. They thought that there was an empty housing for the valve in all 1972 Caprice's. I have heard that recently the U. S. Government is trying to make General Motors recall many of its X-cars for a similar braking spin-out problem, but that all happened after my case.

The lawyers spent many years of work, took thousands of pages of depositions, consulted with automobile experts in the United States and even in England. Eventually, in April, 1980, they took my case to trial against General Motors in Anchorage. The trial lasted nine weeks and we won. General Motors appealed, but at the end of 1981, they agreed to a settlement. They had never offered any settlement before then, seven years after my injury.

I could never had paid my lawyers by the hour as they worked on my case, and I am sure that they would not have been able to pursue such a hard fought, technical case against a big company like General Motors for less than the 33-1/3% contingent fee we agreed on.

I hope that you don't take away the ability of the next person who is injured like me to seek justice from rich and

powerful companies who injure them by limiting contingent fees so low that lawyers can't afford to try help them. Also, limiting the rights of injured people to claim non-economic damages will reduce even further the incentive of these companies to try settling cases before making the injured person fight for seven years.

Sincerely,

Tamio Hirose

Tamio Hirose
1-22-15 Morigaoka Isogo-Ku
Yokohama, Japan 235

To Whom It May Concern:

Right up front I want you to know that I am personally against most of HB 532. (TORT REFORM)

The way sec. 09.17.010 noneconomic damages is worded is an elusion. Twenty five percent of the present value of damages or 500,000 whichever is less. Both figures are unrealistic. 500,000 would be 25% of two million, and I think you would be hard pressed to find someone who has paid this much money for medical costs, therefore the settlement you are proposing will always be 25% of the present damages.

I fail to see how we can dictate settlements in every case. No two cases or situations are ever the same so how can we say, all situations are the same.

I think that by limiting the settlements in each and every case, you will see a definite decline in quality control. Persons who work under threat of liability will lower their standards because they will be less fearful of monetary reprisals.

I believe you will see an increase in things such as malpractice and a decrease in suits filed because you would be taking the burden off the insurance companies and placing it on the victims. Thus you'd be giving the upper hand to the rich and taking away from the poor.

I agree with the bill in some part however I don't believe you can set limits. Even if you left out sec. 09.17.010 you would be helping cut down the bad law suits.

My daughter, at time of birth spent five months in a Seattle hospital because an Alaskan doctor was negligent in his duties. Her kidneys are dead, her bones are damaged, and maybe even a chance of brain damage. During that time there were countless operations, tubes running to her for life support and blood transfusions. She is 16 months old now and we have her constantly on dialysis because of her kidneys. Privates nurses are with her almost around the clock. Transplants are scheduled for this year if she is big enough. My wife will donate the first kidney, if all goes well no others will be needed but if my daughters body rejects the first I will be the second donor. At that point I may lose my job because of the risks of the job with only one kidney.

You tell me if you were in my shoes would you want the settlement you are proposing or would you want your day in court. The pain and suffering my family has endured has given us the right to use our judicial system.

I hope to God that nothing serious ever happens to you or your family or you may personally see the effects of the bill your proposing.

Alice S. Dunnagan

Yvonne Yarber
Manley Hot Springs
Alaska 99756

Alaska Legislature
Juneau, Alaska 99801

April 22, 1986

Dear Legislators:

Please take time to read my letter opposing the insurance crisis/tort reform effort at changing our civil justice system. I certainly recognize the insurance problem facing our state at many levels of business, health and social services however, I don't believe such legislation will remedy the situation. In fact I find it quite unfair.

I am a victim of the Dalkon Shield. It is not my fault that this product which was used in good faith has left me sterile and nearly took my life. A.H. Robins, the company which advertised this product under false pretenses does not suffer. It remains solvent and under potection of the justice system through Chapter 11. Where is the legislation that stops such companies from continuing their profits gained at the expense of others.

And why is legislation being proposed that further penalizes those of us who were damaged by the Dalkon Shield both physically and mentally? I am a survivor. I am able to work despite the toll my body has suffered. My economic damage has been a burden but not unbearable. But I ask you, how will limiting recovery of "non-economic" damages give just compensation for loss of my child-bearing ability. How will that comfort me if the man who has been my partner and mate for ten years decides he must leave me to find a woman who can give him a child of his own flesh and blood? I am not being melodramatic. It is only because of my inabililty to bear his children that he wrestles with whether he can live without me or not. Meanwhile, I experience a host of emotions that allows little peace of mind.

In Vitro fertilization is still a possibility for me. I am willing to try this even though childbirth is now a threat to my life since complications resulted from tuboplasty surgery to reopen my tubes. We do not have the 25,000 dollars it takes for the average couple to concieve this way. I have looked towards my Dalkon Shield settlement for this purpose if it comes before my child bearing years are over. I turned 35 years old this week. And now I find out legislation is being proposed that will take this hope from me.

I feel vulnerable and resent feeling compelled to publically display my personal life and problems in order to beg for justice. But I know there are many other women with similar problems who cannot talk about this to an unknown audience that may be unsympathetic.

The insurance crisis/tort reform effort will not stop greedy insurance companies from their gross profits. It will not address the real problem of businesses lacking scruples. It will not stop malpractice. It will not distinguish between the dedicated and talented professionals and those who are inept and irresponsible. It will simply keep money in the pockets of opportunists and as usual the little guys pay.

Why not legislation that establishes an easily accessible public record of doctors repeatedly guilty of malpractice? Of companies that repeatedly market toxic and dangerous products under false pretenses. Why not raise the insurance rates of these people instead of making everyone pay across the board?

Please consider what I have written and oppose the insurance crisis/tort reform. Bad legislation is no answer for a complex problem.

Sincerely,

Yvonne F. Parker

April 18, 1986

Al Adams, Representative
Alaska Legislature
Juneau, Alaska 99801

RE: Opposing HB 532

Dear Mr. Al Adams:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of Dalkon Shield. I of one am a victim that has damaged reproductive organs resulted in 3 tubal pregnancies. The first was almost deadly in my case due to a rupture of my tube while in my home town in Barrow, where there are no local surgical facilities. I've had pain & suffering and emotional anguish that is difficult to talk about. I can't bear any children, I was destroyed by the Dalkon Shield.

I've been able to perservere and continue on with my life and now, I hear that legislature is considering legislation that could limit our recovery of "non-economic" damages. And give punitive damages to the state.

If my lost wages and medical bills are $10,000.00, I understand the provisions you are considering limits my damages for pain, and suffering, emotional anguish, loss of child-bearing ability, or whatever would be entiled to 2,500.00 . This cannot be justice to me and many others as bad as my case against the makers of Dalkon Shield, the A.H Robinson Co. who has filed in the bankrupcy court seeking protection from its creditors.

Please consider opposing the HB 532 in legislation this next session. I am hopeful that you won't allow this to happen. I want to thank you for allowing your time to read my concern over this matter.

Sincerely,

Sandra Kay Hopson

Sandra Kay Hopson
P.O. Box 508
Barrow, Alaska 99723

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children, which we dearly want.

But most of us are able to persevere and continue working, so our "economic" damage may not be great. Just medical bills and some lost wages for operations. We are victims of a company which knowingly put a time bomb in us. And now, we hear that you are considering legislation that could limit our recovery of "non-economic" damages. And give punitive damages to the state.

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I am hopeful that once you understand this you won't allow it to happen. Please leave our civil justice system alone so that we and future victims can have a fighting chance against rich and powerful corporations, which do, on occasion, act irresponsibly.

Sincerely,

Linda M. Lucken

Address:
Rt 2 Box 571
Kasilof, Alaska
99610

4/25/86

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Lynne Roff

Address:
P.O. Box 3073
Homer, Alaska 99603

April 24, 1986

Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: Tort Reform

Dear Legislators:

I am a personal injury victim and I oppose the insurance "crisis"-tort reform effort changing our system of civil justice. The present system gives an injured person a fighting chance for justice and reasonable compensation against rich and powerful corporations and insurance companies. Limiting economic damages is unfair because sometimes people are damaged by wrong doers in important ways that are not just tied to the economic losses of wage loss and medical bills.

The day to day living of the physical pain and mental anguish generated by some physical injuries deserves fair compensation. The juries and the courts have good sense and judgment to base these kinds of losses on what our society thinks is fair.

Changing our civil system and taking these decisions away from the courts and juries will not lower insurance rates. You already have evidence in front of you that the insurance industry in Alaska is profitable. The statement that premiums will be lowered if you adopt tort reform is not supported by the experience in the Canadian Provinces where the tort reform, as proposed in Alaska, is already in place.

Changing our civil justice system won't lower the insurance rates. Please leave the system intact and in the hands of responsive and responsible members of the community, the jury and the court.

Three hundred years of careful development through the legal system of injured persons rights should not be blown away by a short term crisis created by the insurance industry's own financial mismanagement.

Sincerely yours,

Linda L. Larson

April 24, 1986

Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: Tort Reform

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Neil W. Thomas

April 24, 1986

Alaska State Legislature
Pouch V
Juneau, Alaska 99801

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Sincerely yours,

Mary J. Alaska Adams

5-2-86

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Debra L Hamilton

Address:
1405 Orca, #2
Anchorage, AK 99501

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

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Sincerely,

Address:
Katherine M. Ideus
9110 King David Dr.
Anchorage, AK 99507
344-5781

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Brenda Bryant

Address:
522 E. 10th Ave. #9
Anchorage, Alaska
99501

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

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Sincerely,

Julie K. Byerly

Address:

4486 Early Spring Street
Homer, Alaska 99603

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Rhonda Gatts

Address:

1224 Gilmore Trail
Fairbanks, Alaska 99701

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

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Sincerely,

Pamela K Iverson

Address:
8252 Seaview
Anch. AK 99502

Alaska Legislature
Juneau, Alaska 9980[illegible]

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children, which we dearly want.

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Sincerely, Paulette Henderson

Address: 2022 Gilmore Trail
FBKS. AK. 9975[illegible]12

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/ tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect upon me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children which we dearly want!

While I was a user of the Dalkon Shield IUD in 1973, I became pregnant unaware of this" because the baby was growing in my tube, where it finally ruptured (pelvic inflammatory disease with a subsequent ectopic pregnancy) As a result of this my doctor removed my tube and ovary. I did risk another pregnancy and was fortunate to have a""beautiful" little girl in 1974. I do believe she is a miracle, a gift from God for my husband and me!" After her birth though my doctor advised us that it would indeed be too risky to get pregnant again so I went ahead and had my other side tied,(tubal ligation) I could-have died as a result of the Dalkon Shield, and in the years since, I have continous and sometimes serious medical problems that have resulted from the IUD. My husband and me would loved to have had more children!

But most of us persevere and continue working, so our "economic" damage may not be so great. just medical bills and some lost wages for operations. We are victims of a company which knowingly put a time bomb in us! And now, we hear, we hear that you are considering legislation that could limit our recovery of "non-economic" damages, and give punitive damages to the state, which I think might not in"all-likelihood" even be <u>CONSTITUTIONAL</u>?

If my lost wages and medical bills are$10,000, which is not unusual for a Dalkon Shield victim, I understand the provision you are considering limits my damages for pain and suffering, emotional anguish, loss of child-bearing ability or whatever, to $2,500. This cannot be justice in anyones eyes!

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Sincerely,
Celia L. Warrior

Address:
632 N. Pine St.
Anchorage, AK.
99508

4-18-86

Dear Legislators;

I am a Dalkon Shield Victim and have been informed of the insurance Crisis / Tort Reform Law that you are Considering I am totally against such a law being passed. It would be totally unfair to injured persons such as myself who have suffered great pain and emotional Anguish do to a product that I had put my trust in. As a result of this product I Cannot bear children and therefore must deny my husband and myself the joy of a family of our own blood. It is an emotional anguish that I will suffer with the rest of my life. My husband and I both have suffered terribly because of a product that the Company put on the market Knowing it was dangerous. Your "Tort Reform" Law would be Completely unfair to All Dalkon Shield Victims and to anyone who may be injured by a product in the future. I am damaged for life along with all other Women who used the Dalkon Shield. We all paid dearly in several Ways because of that awful product and I feel we deserve Economic, non economic and Penitive damages as a result. Please don't change our Civil Justice System.

I as a victim feel we need the system to fight large Corporations when they act irresponsibly. I feel we deserve the non-economic and punitive damages. I Certainly don't see why the State should get my punitive damages when I am the one who has been suffering. Please don't allow such a law to happen it is unfair to us - The Victims.

Sincerely:

Mrs Bonnie R. Pusley
2619 Carroll Pl.
Anchorage, AK. 99508

I was 25 when my operation was performed. My medical records state my ovaries were no longer recognizable as organs. At 37, each year produces more regret and more anger. At a time when I would be starting a family, there is no chance of that ever happening. Please explain how to reduce this anguish to 25%, so my pain will be less.

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children, which we dearly want.

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Sincerely,

Virginia Stewart

Address:

Box 550
Anchor Point, Ak
99556

Alaska Legislature
Juneau, Alaska 99801

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Sincerely,

Address:
2417 LA HONDA
ANCHORAGE, AK. 99517

Alaska Legislature
Juneau, Alaska 99801

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Sincerely,

Barbara Morehead

Address: 1498 Eagle River Rd
Eagle River, AK 99577

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

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Sincerely,

Mr. & Mrs. Walter D. A. Lemlyn

Address: 10131 Marmot Ct. #1
Anchorage, Alaska 99515

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Lorna K Hamblet

Address: 1155 Old Glenn Cir
Wasilla, AK
99687

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Jo Wright

Address:

SR 5079 D
Wasilla, Alaska
99687

Alaska Legislature
Juneau, Alaska 99801

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I am hopeful that once you understand this you won't allow it to happen. Please leave our civil justice system alone so that we and future victims can have a fighting chance against rich and powerful corporations, which do, on occasion, act irresponsibly.

Sincerely,

Carolyn M. Johnson

Address:

2716 Raspberry Road
Anchorage, Alaska
99502

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children, which we dearly want!

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Sincerely,

Connie Y. Diamond

Address:
3307 Boniface Sp. 68
Anch. Ak. 99504
907) 337-5774 hm.
907) 265-7503 wk.

April 18, 1986

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Barbara Sharpe

Address:

218 East 45th
Anchorage, Alaska
99503

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Karen Parker

Address:
P.O. Box 4-2635
Anchorage, Ak. 99509

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely, Yvonne C. Ray

Yvonne C. Ray

Address: 220 Galleon Drive
Anchorage, AK 99515

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Janice Johnson

Address:
8826 Cordell Cir #3
Anchorage, AK 99502

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Margy L. Lagana

Address:

P.O. Box 771412
Eagle River, AK 99577

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Evelyn A. Tyler

Address: SR Box 5078
Wasilla, AK
99687

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Sharon Wragg

Address:

3811 Clay Products
Anchorage, Alaska
99517

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,
Kathleen Featherngill Calhoun

Address: [illegible] 8571
Indian, Alaska
99540

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Marjorie Morgan

Address:

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

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Sincerely,

Diane Seidel

Address:
2408 W 67
Anchorage, 99502

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Klaudia Ruzi

Address:
8941 Juliana St.
Anch AK
99502

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Monica Thomas
(Monica Thomas)

Address:

Box 80135
Fairbanks, AK 99705

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Christy Johnson

Address:
PO Box 1389
Seward, AK 99664

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Joan E Barker

Address:

2589 Honey Bee Lane
North Pole, Alaska
99705

April 19, 1986

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

I am a Dalkon Shield victim and I want you to know that I oppose the insurance crisis/tort reform effort at changing our civil justice system. If applied to Dalkon Shield cases, the provisions you are considering would have a drastic effect on me and all other victims of the Dalkon Shield. Many victims of the Dalkon Shield lost their reproductive organs, or they were severely damaged; we all have pain and suffering and emotional anguish that is difficult to describe and hard to talk about. Many of us can't bear children, which we dearly want.

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Sincerely,

Donna McLeod

Donna McLeod

Address:
2733 W 100 th Ave.
Anch.
Ak 99502

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Patricia Ann Kay

Address:

Box 515
Birdwood, Alaska
99587

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Mary J. Arterburn, William A Arterburn

Address:
Box 1117
Willow, Alaska

Alaska Legislature
Juneau, Alaska 99801

RE: Dalkon Shield IUD

Dear Legislators:

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Sincerely,

Dorothy A Ruth

Address:
7443 Lindenden
Anchorage
Alaska 99502

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: SHARON WALLEEN
2041 BOREALIS
ANCHORAGE, ALASKA 99503
279-0860

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

TORT REFORM WILL NOT LOWER INSURANCE RATES AND TORT REFORMERS ADMIT THIS. IT WILL ALLOW WRONG-DOERS TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. FIND OUT MORE ABOUT INSURANCE COMPANY PROFITS IN ALASKA. VOTE NO.

DATE: 03/28/86 TIME: 11:53:06 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PEGGY WILLIAMS
4319 SAN ROBERTA, #1
ANCHORAGE 99508
258-1029

BILL NO:

SUBJECT: JUSTICE FOR VICTIMS

MESSAGE:

INSURANCE REFORM NOT TORT REFORM. VOTE NO ON HB 532.
VOTE NO ON HB 465 DIVESTMENT. SUPPORT SB 187 ON ADOPTION.
SUPPORT HB 547, HEALTH INSURANCE AND HB 589, HEALTH.
JUSTICE FOR THE VICTIMS NOT INJUSTICES. DON'T SUPPORT
LAWS AGAINST THE PEOPLE. SEE YOU AT ELECTION TIME.

DATE: 03/28/86 TIME: 13:36:59 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M MIKE MILLER

FROM: ALASKA F. LINCK
666 10TH AVE.
FAIRBANKS, ALASKA 99701
456-5107

BILL NO: HB 338

SUBJECT: ESTABLISHING A STATE LOTTERY

MESSAGE:

FOR A VARIETY OF REASONS, I URGE YOUR VOTE AGAINST PASSAGE.

EOM/FRAN

DATE: 03/28/86 TIME: 10:57:14 SENT BY: FAIRBANKS LIO

COPIES TO: HOUSE JUDICIARY

PUBLIC OP 'ON MESSAGE

TO: REPRESE IVE M. MIKE MILLER

FROM: JAMES E. MOEHLING
1331 PRIMROSE
ANCHORAGE 99508
272-1747

BILL NO:

SUBJECT: HB 532 AND SB 377, TORT REFORM

MESSAGE:

I WANT TO OPPOSE BOTH BILLS.

DATE: 03/28/86 TIME: 12:42:47 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: NANCY T. KELLAM
926 WEST 26TH AVE. APT. #210
ANCHORAGE, ALASKA 99503
272-0071

BILL NO:

SUBJECT: HB 532 AND HB 481 - TORT REFORM

MESSAGE:

OPPOSE HB 532 AND HB 481.

DATE: 03/28/86 TIME: 12:51:08 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: GERALD BALTHAZORE
801 AIRPORT HEIGHTS, SP. 219
ANCHORAGE, ALASKA 99508
277-6194

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I AM OPPOSED TO HB 532 WHICH TAKES AWAY RIGHTS OF THE INJURED PERSON. I WAS SERIOUSLY INJURED WHEN AN INTOXICATED DRIVER CAME THE WRONG WAY ON A ONE WAY STREET AND HIT ME HEAD ON. THE INSURANCE SYSTEM IS ALREADY STACKED AGAINST AN INJURED PERSON. DON'T PASS ANY BILLS THAT TAKE AWAY RIGHTS WE NOW HAVE.

DATE: 03/28/86 TIME: 14:21:07 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: CHARLES FLOYD
926 WEST 26TH APT. #210
ANCHORAGE, ALASKA 99503
272-0071

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I OPPOSE HB 532.

DATE: 03/28/86 TIME: 14:59:12 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: DELL WOLFINGTON
9124 GLORALEE STREET
ANCHORAGE 99502
243-4720

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I HEARTILY DISAPPROVE OF THIS BILL. I WANT A NO VOTE ON HB 532.

DATE: 03/28/86 TIME: 11:40:07 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PATRICIA PEACH
5901 BRISTOL DRIVE
ANCHORAGE 99516
345-1464

BILL O: HB 532

SUBJEC LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I SUPPORT BOTH HB 532 AND SB 377. COMMON SENSE MUST BE RESTORED TO THE TORT SYSTEM.

DATE: 03/28/86 TIME: 15:11:56 SENT BY: ANCHORAGE LIO

COPIES TO: REPRESENTATIVE: FRITZ PETTYJOHN

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: CHARLOTTE CARROLL
P.O. BOX 537
JUNEAU, AK 99802
586-2037

BILL NO: SB 377

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

THE TORT REFORM IS TRYING TO TAKE AWAY THE PEOPLE'S RIGHTS IN MY OPINION. THE COURTS SHOULD BE ABLE TO DECIDE. I AM AN ACCIDENT VICTIM.

DATE: 03/28/86 TIME: 16:54:20 SENT BY: JUNEAU LIO

COPIES TO: REPRESENTATIVE: JIM DUNCAN
REPRESENTATIVE: MIKE NAVARRE
SENATOR: BILL RAY
SENATOR: PATRICK RODEY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PATRICIA MINTON
2375 CAPT. COOK DRIVE
ANCHORAGE 99517
248-0812

BILL NO:

SUBJECT: TORT REFORM ISSUE

MESSAGE:

AN INSURANCE COMPANY EXECUTIVE RECENTLY SAID THAT IF THE LEGISLATURE PASSED THE BILLS SUBMITTED TO CHANGE THE TORT SYSTEM, INSURANCE PREIMUMS FOR ALASKANS WOULD NOT BE LOWERED. SIGNIFICANT CHANGES IN THE CIVIL JUSTICE SYSTEM MUST BE CAREFULLY STUDIED BEFORE ANYTHING IS DONE. I WOULD URGE YOU TO INVESTIGATE THE INSURANCE INDUSTRY.

DATE: 04/23/86 TIME: 11:26:23 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: KATHY CALVIN
GEN DEL
SKWENTNA 99667
733-2813

BILL NO. HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I OPPOSE HB 532. I AM A DALKON SHIELD VICTIM, UNABLE TO BEAR CHILDREN BECAUSE OF THE IRRESPONSIBILITY OF THE COMPANY. I HAVE SPENT MONEY TRYING TO CONCEIVE. I FEEL I SHOULD BE COMPENSATED FAIRLY. PLEASE LEAVE OUR CIVIL JUSTICE ALONE.

DATE: 04/23/86 TIME: 11:55:28 SENT BY: MATSU LIO

COPIES TO: REPRESENTATIVE: KATIE HURLEY
SENATOR: JALMAR M. KERTTULA
SENATOR: EDNA B. DE VRIES
HOUSE JUDICIARY
SENATE FINANCE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JOSEPH KASHI
224 KENAI AVE.
SOLDOTNA, ALASKA 99669
262-4604

BILL NO: ---

SUBJECT: TORT REFORM BILL

MESSAGE:

I OPPOSE THE TORT REFORM BILL. INSURANCE INDUSTRY CLAIMS AND EXAMPLES SEEM GREATLY EXAGGERATED AND NOT BELIEVEABLE. THE LEGISLATURE SHOULD NOT DISTRUST THOSE COMMUNITY MEMBERS WHO SIT ON JURIES AND HEAR FACTS OF A PARTICULAR CASE. THE CURRENT BILL IS UNFAIR TO VICTIMS AND PROBABLY WILL NOT REDUCE RATES.

DATE: 04/23/86 TIME: 14:54:15 SENT BY: SOLDOTNA LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JOHN AND SUE RODERICK
BOX 742
SOLDOTNA, ALASKA 99669
262-4378

BILL NO: ---

SUBJECT: TORT REFORM

MESSAGE:

PLEASE OPPOSE TORT REFORM. THERE ARE NO GUARENTEES RATES WILL COME DOWN, AND WE DON'T WANT TO GIVE UP OUR RIGHTS TO JUSTIFIBLE AWARDS. IF EVERYONE BEHAVED IN A RESPONSIBLE MANNER, WE COULD AGREE TO LIMITS, AS IT IS, THERE ARE TOO MANY NEGLAGENT PEOPLE OUT THERE.

DATE: 04/23/86 TIME: 15:27:06 SENT BY: SOLDOTNA LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: TERI LIPINSKI
224 KENAI AVE.
SOLDOTNA, ALASKA 99669
262-2431

BILL NO: ---

SUBJECT: TORT REFORM

MESSAGE:

I OPPOSE THE TORT REFORM BILL. WE SHOULD TRUST OUR COMMUNITY RESIDENTS ON JURIES WHO ACTUALLY HEAR THE FACTS. THE BILL IS UNFAIR TO MANY RESIDENTS WHO ARE INJURED EVERY YEAR AND THERE IS NO PROMISE OF LOWER INSURANCE RATES.

DATE: 04/23/86 TIME: 14:43:28 SENT BY: SOLDOTNA LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: HOWARD NUGENT
4400 GRAY WOLF DR.
WASILLA AK 99687
376-4711

BILL NO: SB 377

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

AFFORDABLE AND AVAILABLE LIABILITY INSURANCE WILL REQUIRE PASSAGE OF MEANINGFUL LEGISLATION AS ALSO IS RECOMMENDED BY THE U.S. ATTORNEY GENERAL TORT POLICY WORKING GROUP'S ANALYSIS. (FEBRUARY 1986) IT'S RESULTANT RECOMMENDATIONS ARE INCLUDED IN HB532 AND SB377 IN THEIR ORIGINAL FORMS. PLEASE SUPPORT HB532 AND SB377 IN THEIR ORIGINAL FORMS.

DATE: 04/23/86 TIME: 10:39:55 SENT BY: MATSU LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE MIKE W. MILLER

FROM: SCOTT NEWBOLD
6928 TIMMTHY STREET
ANCHORAGE 99502
248-6661

BILL NO:

SUBJECT:

MESSAGE:

DO NOT PASS ANY TORT REFORM MEASURES WITHOUT INCLUDING GUARANTEES OF LOWER PREMIUMS AND MORE AVAILABILITIES.

DATE: 04/22/86 TIME: 15:12:35 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: E. MAHANEY, & DISTRICT 15 CITIZENS
PO BOX 671495
CHUGIAK, ALASKA 99567
N/A

BILL NO:

SUBJECT: TORT REFORM BILLS, HB 532, SB 377 & OTHERS

MESSAGE:

WE THE VICTIMS AND CITIZENS URGE YOU NOT TO PASS HB 532. NEED INSURANCE REFORM BEFORE TORT REFORM AND STUDY, EVALUATION OF PRESENT SYSTEMS. THANK YOU FOR CONSIDERATION.

DATE: 04/22/86 TIME: 13:07:44 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE JUDICIARY
SENATE JUDICIARY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: GLORIA DITE
P O BOX 337
TALKEETNA 99676
N/A

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I AM A DAIKON SHIELD VICTIM. IN MY OPINION PASSAGE OF HB532 WOULD SERIOUSLY, SERIOUSLY HARM VICTIMS ABLE TO RECEIVE JUST COMPENSATION. I AM STERILE. I HAVE BEEN SICK SINCE THE AGE OF 20. TWENTY-FIVE PERCENT OF MY MEDICAL COSTS IS NOT ENOUGH TO PAY FOR THE PHYSICAL AND EMOTIONAL PAIN I HAVE SUFFERED THE LAST TWO YEARS WITH ONE YEAR IN THE HOPITAL BECAUSE IT HURT SO BAD. BELIEVE EACH CASE SHOULD BE DECIDED INDIVIDUALLY.

DATE: 04/22/86 TIME: 14:41:56 SENT BY: MATSU LIO

COPIES TO: HOUSE JUDICIARY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: CHERYL DURAND
5827 TENIAN
ANCHORAGE 99507
564-5251

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

I WAS IN A SEVERE CAR WRECK IN 1984. I WAS SEVERELY INJURED. I HAVE HAD 5 SURGERIES IN THE PAST 17 MONTHS. I HAVE BEEN THROUGH A VERY TRAUMATIC 1 1/2 YEAR WITH SEVERE PAIN AND CONTINUAL MENTAL ANGUISH. IF THIS TORT REFORM IS PASSED I WILL BE THE LOSER.

DATE: 04/24/86 TIME: 13:06:30 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JANET TEMPEL
BOX 2073
SOLDOTNA 99669
262-4604

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

I FEEL TORT REFORM WILL NOT REDUCE INSURANCE RATES AND IS UNFAIR TO THE VICTIMS. INSURANCE COMPANIES GOT THEMSELVES INTO THIS FIX BECAUSE OF POOR MANAGEMENT AND NOW WANT TO TAKE IT OUT ON THE VICTIMS.

DATE: 04/24/86 TIME: 13:02:47 SENT BY: SOLDOTNA LIC

COPIES TO: HOUSE JUDICIARY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: TERRI POLLOCK
222 W MANOR
ANCHORAGE 99501
276-4335

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I STRONGLY OPPOSE HB 532 BECAUSE IT LIMITS VICTIM'S RIGHTS AND WILL NOT REDUCE INSURANCE RATES.

DATE: 04/24/86 TIME: 13:53:50 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PHILIP VOLLAND
2544 FORKER DRIVE
ANCHORAGE 99517
248-1891

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

URGE YOU TO OPPOSE HB 532. THE INSURANCE INDUSTRY WILL NOT PROMISE TO REDUCE RATES IF THE BILL IS PASSED.

DATE: 04/24/86 TIME: 10:16:00 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE JUDICIARY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JANE[illegible] BEVER
P.O. BOX 670591
CH[illegible]IAK 99567
68[illegible]-9533

BILL NO: SB 377

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

HB 532 - I URGE YOU TO NOT PASS THESE BILLS UNTIL THE PETERS CREEK WATER PROBLEM HAS BEEN RESOLVED.

DATE: 04/28/86 TIME: 12:53:14 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: LYNN GLENN
P. O. BOX 671308
CHUGIAK 99567
688-2098

BILL NO: SB 377

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

HB 532 - PLEASE DO NOT PASS SB 377 OR HB 532 UNTIL THE PETERS CREEK WATER PROBLEM HAS BEEN RESOLVED.

DATE: 04/28/86 TIME: 12:55:20 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: SANDRA ALTO
5733 JENNIFER CIRCLE
ANCHORAGE 99504
337-8837

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

PROTECT THE VICTIMS RIGHTS. VOTE NO ON TORT REFORM.

DATE: 03/24/86 TIME: 15:26:36 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: KRISTEN YOUNG
4135 HOOD COURT
ANCHORAGE, AK 99517
243-7582

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I OPPOSE THESE BILL, HB 532 AND SB 377, BECAUSE THEY LIMIT THE RECOVERY OF PEOPLE INJURED BY THE WRONG DOING OF OTHERS. THE RIGHTS OF THESE VICTIMS SHOULD NOT BE CUT OFF. THE INSURANCE COMPANIES NEED TO BE REGULATED SO THAT CONSUMERS KNOW EXACTLY WHERE THEIR PREMIUM DOLLARS ARE GOING.

DATE: 03/24/86 TIME: 14:50:32 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

DELIVER TO: JPOM

ORIGINAL
SENT 03/21/86 TIME 16:41
FROM: LIOANC
SUBJECT FOM
PRINT DATE: 03/21/86 TIME 16:42

61

TO: ALL LEGISLATORS

FROM: PAUL LEWIS
7312 HUNTSMAN CIRCLE, NO. 1
ANCHORAGE, AK 99518 PHONE: 563-3174

SUBJECT: HB 224 - MANDATORY SEAT BELTS

PLEASE CONTINUE TO SUPPORT THE MANDATORY SEAT BELT LAW. I VIEW IT AS FROM A CHILD'S PERSPECTIVE - CHILDREN NEED ROLE MODELS, GOOD PARENTAL JUDGEMENT, AND THE SECURITY THEY ARE ACCUSTOMED TO, VIA THE CURRENT CHILD SEAT BELT LAW. DON'T LET THEM DOWN!

TO: ALL LEGISLATION

FROM: WARREN WESTFALL
PO BOX 103973
1095 WEST 7TH AVE
ANCHORAGE, ALASKA 99501 PHONE 276-78887

SUBJECT HB 532 - TORT REFORM

TORT REFORM IS NEEDED BUT THIS IS NOT THE RIGHT WAY TO DO IT. INSURANCES' RATES WILL NOT BE LOWERED AND VICTIMS WILL BE UNFAIRLY PENALIZED.

TO: ALL LEGISLATORS

FROM: TAMMY B. HOWELL
208 NORTH PINE
ANCHORAGE, AK 99504 PHONE: 243-6931

SUBJECT: HB 554 - JUVENILE SENTENCING

I WOULD LIKE TO STATE THAT I AM OPPOSED TO HB 554.

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: BARRY BENSON
P.O.BOX 146
NENANA 99760
832-5647

BILL NO: HB 532

SUBJECT: TORT REFORM

MESSAGE:

VOTE NO. PROTECT THE RIGHTS OF THE PEOPLE, YOU CANNOT ELIMINATE WHAT A PERSON'S OWED TO THEM FOR SOME ONE ELSE'S NEGLIGENCE.

DATE: 03/24/86 TIME: 11:05:44 SENT BY: FAIRBANKS LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PAUL COSSMAN
P.O. BOX 100107
ANCHORAGE 99510
276-3188

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

VOTE NO ON TORT REFORM. TORT REFORM IS NOT THE ANSWER TO THE INSURANCE CRISIS. VOTE YES ON RE-INSURANCE BILLS.

DATE: 03/24/86 TIME: 10:47:27 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: LAYNE ADAMS
2027 EAST 37TH AVE
ANCHORAGE 99508
563-4387

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

I DON'T BELIEVE REFORMING TORT LAW WILL HELP LOWER INSURANCE RATES. WE SHOULD WAIT TO SEE THE EFFECTS OF SIMILAR LAWS IN OTHER STATES BEFORE JEOPARDIZING THE RIGHTS OF ACCIDENT VICTIMS. IT MAY BE WORTHWHILE TO CONSIDER REGULATING INSURANCE RATE SETTING PRACTICES.

DATE: 03/24/86 TIME: 12:28:49 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: MRS. J. W. BRANNON
2612 SPRUCEWOOD
ANCHORAGE 99508
279-2066

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I ABSOLUTELY DO NOT WANT THIS BILL PASSED. I WILL VOTE AGAINST ANYONE WHO VOTES FOR THIS BILL AND WILL CAMPAIGN AGAINST THEM.

DATE: 03/24/86 TIME: 12:57:37 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: TODD COSSMAN
P.O. BOX 100107
ANCHORAGE 99510
274-1319

BILL NO: NONE

SUBJECT: ALL TORT REFORM BILLS

MESSAGE:

VOTE NO ON ALL TORT REFORM. INSURANCE REFORM IS THE ANSWER.

DATE: 03/24/86 TIME: 12:39:49 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: STEVE BRANNON
204 TWENTY GRAND
EAGLE RIVER 99577
694-2596

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I WOULD LIKE TO REQUEST THAT YOU VOTE NO ON THIS BILL. I HOPE YOU REALIZE THE STRONG IMPACT THIS BILL WOULD HAVE ON EVERYONE EMPLOYED IN A DANGEROUS OCCUPATION.

DATE: 03/24/86 TIME: 09:20:49 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

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* DELIVER TO: JPOM                                                     *
*                                                                      *
*                                                                      *
* ORIGINAL                                                             *
* SENT:              03/21/86  TIME: 16:52                             *
* FROM               LIOANC                                            *
* SUBJECT:           POM                                               *
* PRINT DATE:        03/21/86  TIME: 16:52                             *
*                                                                      *
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61

TO: ALL LEGISLATORS

FROM: WILLIAM SOULE
368 SOUTH KLEVIN
ANCHORAGE, AK 99508 PHONE 33[illegible]-3800

SUBJECT: HB 532 - TORT REFORM

I AM OPPOSED TO HB 532 BECAUSE I FEEL THE INSURANCE COMPANIES ARE REAPING WINDFALL PROFITS AS THE LAWS ARE PRESENTLY CONSTITUTED AND I FEEL THAT THE NEGLIGENCE OF INDIVIDUALS IN GENERAL IS THE CAUSE OF INCREASING INSURANCE RATES, PROBABLY DUE TO POOR RISK MANAGEMENT BY THE INSURANCE COMPANIES THEMSELVES.

FROM: GRATH HALL [illegible] 786-7670
BOX 73 - 3550 SHARON GAGNON LANE
ANCHORAGE, ALASKA 99508

SUBJECT: HB 465 - STATE FISCAL INVOLVEMENT IN SOUTH AFRICA

PLEASE DIVEST ALL STATE FUNDS FROM BUSINESS' WHICH DO BUSINESS WITH SOUTH AFRICA.

TO: ALL LEGISLATORS

FROM: CLAYTON MIZAR, 1919 E. 44TH, ANCHORAGE, 99507, HM, 522-1503, WK, 276-2313

RE: HB 532, TORT REFORM

I AM AGAINST THIS BILL.

TO: ALL LEGISLATORS

FROM: BOB BUCHANAN, 1831 E. 75TH, #1, ANCHORAGE, 99507, HM, 349-7700

RE: HB 224 SEAT BELTS

I MYSELF WEAR MY SEAT BELT AND CAN THINK OF NOTHING BUT SHEAR FOLLY AS A REASON NOT TO. BUT IT IS NOT THE GOVERNMENT'S POSITION TO FORCE ADULTS TO PROTECT THEMSELVES. THAT IS A DECISION THE STATE HAS NO PART IN. LET INFORMED ADULTS BE ADULTS.

* FROM: BARBARA NORRELL *
* SUBJECT: POM *
* PRINT DATE: 04/21/86 TIME: 10:36 *
*

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TO: ALL LEGISLATORS

FROM: JOANNE LANGDON, 604 KEY STONE PLACE, EAGLE RIVER, AK 99577, 694-4969

SUBJECT: HB 532, LIMITATIONS ON CIVIL LIABILITY

I AM OPPOSED TO HB 532. I AM A VICTIM OF SOMEONE ELSE'S COMPLETE NEGLIGENCE. BECAUSE OF HIS NEGLIGENCE, I HAVE LOST A FULL TIME EXCELLENT JOB. I CAN ONLY WORK PART-TIME AND HAVE LOST MY HOME. PLEASE VOTE AGAINST IT SO I DON'T BECOME A VICTIM AGAIN.

FROM: RITA PEPPLETON
1133 PARK DRIVE, APT. B
FAIRBANKS, AK. 99709

PHONE: 456-5160-H

RE: PROPOSED BUDGET CUT FOR THE HEADSTART PROGRAM

MSG: SENATOR KERTTULA'S PROPOSED BUDGET CUT FOR THE HEADSTART PROGRAM WILL GREATLY HURT THE PROGRAM IF NOT DESTROY IT COMPLETELY. CHILDREN ARE OUR FUTURE SO LETS HELP THEM MAKE IT A GREAT FUTURE BY EDUCATING THEM NOW.

FROM: RITA PEPPLETON
1133 PARK DR., APT. B
FAIRBANKS, AK, 99709

PHONE: 456-5160-H

RE: RELOCATION OF THE GREATER FAIRBANKS HEADSTART

MSG: FAIRBANKS HEADSTART NEEDS TO BE RELOCATED SO IT CAN SERVE MORE OF THE GREATER FAIRBANKS COMMUNITY. WITH THE TROOP BUILD-UP ON FORT WAINWRIGHT HEADSTART WILL PROBABLY BE LOOSING THEIR BUILDING. THIS IS TOO GOOD OF A PROGRAM TO LOOSE BECAUSE IT DOESN'T HAVE A BUILDING TO OPERATE FROM.

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: LINDA MAJER
2050 BETTLES BAY LOOP
ANCHORAGE, AK 99515
344-5280

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

IT IS APPALLING THAT ANY ELECTED REPRESENTATIVE WOULD EVEN CONSIDER THE PASSING OF HB 532 AND SB 377. YOU HAVE BEEN PUT IN OFFICE TO PROTECT THE BASIC RIGHTS OF THE PEOPLE IN ALASKA NOT TAKE AWAY THE RIGHTS OF FUTURE VICTIMS. NO ONE HAS THAT RIGHT.

DATE: 03/24/86 TIME: 14:19:56 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE
SENATE

THANKYOU

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* DELIVER TO: JPOM

* ORIGINAL

* SENT: 03/21/86 TIME: 13:56

* FROM: HARRY MANDREGAN

* SUBJECT: POM

* PRINT DATE: 03/21/86 TIME: 13:57

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61

TO: ALL LEGISLATORS

FROM: JEANE HESLIN 224-5683
P.O. BOX 411
SEWARD, ALASKA 99664

SUBJECT: HB 532 - LIMITATIONS ON CIVIL LIABILITY

I URGE YOU NOT TO PASS HB 532 WHICH IS THE TORT REFORM.

TO: ALL LEGISLATORS
FR: BEVERLY FROST
P.O. BOX 60
SUTTON AK 99674

RE: HB164 STUDENT LOANS

I OPPOSE THIS BILL. YOUNG PEOPLE ARE AT A CROSSROADS IN THEIR LIVES WHEN PURSUING HIGHER EDUCATION. WEANING AWAY FROM HOME, PARENTS, SEEKING HOUSING, SEEKING PART-TIME EMPLOYMENT [illegible] A CER

THAT HOPEFULLY WILL BE PROBLEM IN MINOR

TO: ALL LEGISLATORS

FROM: DR. MITCHELL WETHERHORN, YOLANDA DRIVE, P.O.BOX 871370, WASILLA, AK 99867, 376-5477 (H) OR 562-0454

SUBJECT: HB 532, TORT REFORM

I WOULD HOPE YOU WOULD SERIOUSLY CONSIDER THE RIGHTS OF VICTIMS BEFORE PLACING PERSONAL INJURY LIMITS ON JURY AWARDS.

TO: ALL MEMBERS OF THE HOUSE
ALL MEMBERS OF THE SENATE

FROM: NANCY BIRD
P.O. BOX 1185
CORDOVA, ALASKA 99574

PHONE: 424-7466

RE: SUSITNA DAM

SMG: A VOTE FOR CONTINUED FUNDING OF THE SUSITNA DAM PROJECT IS A VOTE TO END ALL STATE SUBSIDIES OF OTHER SERVICES AND PROJECTS WITHIN FIVE YEARS. WORSE YET, IT IS A VOTE TO COMMIT OUR PERMANENT FUND TO ONE, VERY LIMITED PROJECT. WE DON'T NEED SUSITNA.

* DELIVER TO: SFUM

* ORIGINAL
* SENT: 03/21/86 TIME: 14:18
* FROM: LIOFBX
* SUBJECT: POM\FBKS\FRAN
* PRINT DATE: 03/21/86 TIME: 14:18

61

TO: ALL MEMBERS OF THE HOUSE
ALL MEMBERS OF THE SENATE

FROM: DEBORAH NIEDERMEYER
754 9TH AVE.
FAIRBANKS, ALASKA 99701

PHONE: 456-5912

RE: THAT DAM PROJECT

MSG: ACCORDING TO APA, SUSITNA WOULD NOT LOWER CONSUMER ENERGY COSTS UNTIL 2007. THE DAM PROJECT THREATENS THE PERMANENT FUND DIVIDEND PROGRAM AND THE PERMANENT FUND ITSELF. A SCALED-DOWN PROJECT WOULD PRESENT SIMILAR PROBLEMS. IF WE QUESTION WHETHER WE CAN CONTINUE THE STUDENT LOAN PROGRAM, WE CERTAINLY CAN'T AFFORD ANOTHER DIME FOR SUSITNA.

61

TO: ALL LEGISLATORS

FROM: CONSTANCE LUCE
4558 SANDY BEACH
ANCHORAGE, ALASKA 99502 PHONE: 248-3352

SUBJECT: HB 532

TORT REFORM WILL NOT LOWER INSURANCE RATES AND THE TORT REFORMERS ADMIT IT. IT WILL ALLOW WRONG DOERS LIKE DRUNK DRIVERS TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. IT WILL REDUCE A VICTIMS RIGHT TO BE FAIRLY REPRESENTED IN COURT. VOTE NO ON TORT REFORM. VOTE YES ON INSURANCE REFORM.

* ORIGINAL
* SENT: 03/21/86 TIME: 14:40
* FROM: LIDAR
* SUBJECT: POM
* PRINT DATE: 03/21/86 TIME: 14:40

61

TO: ALL LEGISLATORS

FROM: DELORES PENDLETON
4544 PIPER STREET
ANCHORAGE, ALASKA 99507 PHONE: 562-5155

SUBJECT: EARLY RETIREMENT FOR PERS AND TRS

FUNDING EARLY RETIREMENT BILL FOR STATE EMPLOYEES IS DISCRIMINATING AGAINST PERS AND TRS MEMBERS AND I WILL DO WHAT I CAN TO STOP OR AMMEND THE BILL. WE'RE ALL EQUAL IN MEMBERSHIP. I DO NOT LIKE BEING REFERRED TO AS A DISCOUNT BECAUSE OF MY AGE

TO: ALL LEGISLATORS

FROM: BERYL LAMB
3571 ORBIT CIRCLE
ANCHORAGE, ALASKA 99503 PHONE 348-1915

SUBJECT: HB 532

I AM DEFINITELY OPPOSED TO HB 532

EOM

TO: ALL LEGISLATORS

FROM: PAUL FELTHAUSER
SR A 6490
PALMER, ALASKA 99645 PHONE 745-6265

SUBJ: HB 532 AND SIMILAR LEGISLATION

I OPPOSE THIS BILL AND ALL SIMILAR LEGISLATION BECAUSE I HAVE BEEN AN INJURED PARTY AND THIS BILL TAKES AWAY THE RIGHTS OF THE UNINJURED. NO ONE EXPECTS TO BE AN INURED PARTY BUT WHEN IT HAPPENS THIS BILL WOULD TAKE AWAY ANY RECOURSE THAT THEY MAY HAVE IN GETTING ANY TYPE OF FAIR COMPENSATION.

TO: ALL LEGISLATORS

FROM: CYNTHIA PIERCE 344-3973
9659 RELIANCE
ANCHORAGE, ALASKA 99507

SUBJECT: HB 532 - LIMITATIONS ON CIVIL LIABILITY

PLEASE OPPOSE HB 532. VOTE NO.

* ORIGINAL
* SENT: 03/21/86 TIME: 15:31
* FROM: LIOMAT
* SUBJECT: P.O.M. J-M
* PRINT DATE: 03/21/86 TIME: 15:31

61

TO JUNEAU INFO
FROM JUDY-MATSU

TO: ALL LEGISLATORS
FR: TOM REHARD
P.O. BOX 871550
WASILLA AK 99687 376-4441
RE: PERMANANT FUND
PLEASE DO NOT CONSIDER BORROWING FROM THE PERMANANT FUND. SOCIAL SECURITY MONEY WAS BORROWED FOR THE FOREIGN WAR. IT NEVER GOT REPLACED. DON'T OVER SPEND.

TO: ALL MEMBERS OF THE ALASKA STATE LEGISLATURE

FROM: MARY AND WILSON, BOX 311, CAMAI MEDICAL CENTER, DANNER, AK

SUBJ: DIVISION OF FAMILY AND YOUTH SERVICES' BUDGET

PLEASE DO NOT LEAVE 16 POSITIONS VACANT, DO NOT CUT TRAVEL FUNDS OR FOSTER - RESIDENTIAL CARE ALLOTMENTS. ALL ARE IMPORTANT SERVICES TO ALASKAN CITIZENS.

TO: ALL LEGISLATORS

FROM: FLORENCE LIFFICK
1200 WEST DIMOND BLVD #116
✓ ANCHORAGE, ALASKA 99515 PHONE 344-9398

SUBJ: HB 532

FIND OUT MORE ABOUT INSURANCE COMPANY PROFITS IN ALASKA. VOTE NO ON TORT REFORM, YES ON INSURANCE REFORM.

TO: ALL LEGISLATORS

FROM: ANN GHICADUS 338-1007
7020 PECK AVENUE
ANCHORAGE, ALASKA 99504

SUBJECT: DIVESTMENT IN SOUTH AFRICA

I WOULD LIKE TO VOICE MY OPPOSITION TO THE INVESTMENTS MADE IN SOUTH AFRICA BY THE STATE OF ALASKA. I BELIEVE THERE ARE BETTER WAYS TO INVEST OUR STATES MONEY THAN BY SUPPORTING A GOVERNMENT THAT IS BASED ON RACISM AND HATRED.

DELIVER TO: JPOM

ORIGINAL
SENT: 03/21/86 TIME: 14:32
FROM: BARBARA NORRELL
SUBJECT: POM
PRINT DATE: 03/21/86 TIME: 14:32

61

TO: ALL LEGISLATORS

FROM: JAMES WISE, 3810 MARCY COURT, ANCHORAGE, AK 99502, 243-5848

SUBJECT: HB 532, TORT REFORM

REQUEST A VOTE AGAINST HB 532 BECAUSE IT RESTRICTS THE RIGHTS OF THE INJURED PARTY IN A CIVIL SUITE FOR DAMAGES TOO MUCH.

TO: ALL LEGISLATORS
FR: HARRIET KEPPLER
C/O PIONEER HOME
250 E. FIREWEED
PALMER AK 99645
RE: SB140 LIVING WILL

61

I SEE NOTHING WRONG WITH SB140, EXCEPT MAKE THE WORD DOCTOR PLURAL, INSTEAD OF DOCTOR.

DELIVER TO: JPOM

ORIGINAL
SENT: 03/20/86 TIME: 15:59
FROM: L10ANC
SUBJECT: POM
PRINT DATE: 03/20/86 TIME: 15:59

TO: ALL LEGISLATORS

FROM: L HACKETT
PO BOX 10-489
ANCHORAGE, ALASKA 99501 PHONE: NONE AVAILABLE

SUBJECT: HB 532

AS A PUBLIC REPRESENTAIVE AND AN INDIVIDUAL WHO HAS BEEN ENTRUSTED WITH THEIR CONSITUENTS BEST INTEREST I URGE YOU TO DEFEAT HOUSE BILL 532. IN PASSING THIS BILL YOU WILL BE VICTIMIZING THE VICTIM A SECOND TIME AROUND. YOU AND YOURS MAY BE THE NEXT VICTIM!

TO: ALL LEGISLATORS.

FROM: SANDRA ALTO
5733 JENNIFER CIRCLE
ANCHORAGE, AK 99504 PHONE: 337-8837

SUBJECT: TORT REFORM

TORT REFORM WILL NOT LOWER INSURANCE RATES AND THE TORT REFORMERS ADMIT IT. IT WILL ALLOW WRONG-DOERS, LIKE DRUNK DRIVERS, TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. IT WILL REDUCE A VICTIM'S RIGHT TO BE FAIRLY REPRESENTED IN COURT. FIND OUT MORE ABOUT INSURANCE COMPANIES' PROFITS IN ALASKA.

TO: ALL LEGISLATORS

FROM: BRIGETTE SIFF
221 E 7TH AVE #203
ANCHORAGE, ALASKA 99501 PHONE: 274-5147

SUBJECT: HB 554

BECAUSE OF THE DEFICIT WE CAN NO LONGER AFFORD PRESUMPTIVE SENTENCING AND THE NEED FOR ADDITIONAL PRISONS.

DELIVER TO: JP

41

ORIGINAL
SENT: 03/20/86 TIME: 16:57
FROM: LIGANC
SUBJECT: POM
PRINT DATE: 03/20/86 TIME: 16:57

TO: ALL REPRESENTATIVES

FROM: TOM GARRETT
1016 BARROW STREET
ANCHORAGE, ALASKA 99501 PHONE: 258-6455

SUBJECT: TORT REFORM

DON'T TAKE ANY ACTION JUST FOR THE INSURANCE INDUSTRIES SAKE. EVEN THEY AGREE THAT TORT REFORM WON'T LOWER INSURANCE RATES.

TO: ALL REPRESENTATIVES

FROM: MARY LEE NICHOLSON
PO BOX 771052
EAGLE RIVER, ALASKA 99577 PHONE: 694-2377

SUBJECT: HJR 52

CLOSE VOTE SHOWS THE EXTENT OF SUPPORT FOR HJR 52. URGE YES VOTE UPON RECONSIDERATION.

TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: MARY MORRIS, 3817 RANDOLPH, #B, ANCHORAGE, 99508, HM, 562-6798

RE: HJR 52, NUCLEAR FREE ARCTIC

I WOULD ENCOURAGE YOU TO VOTE IN FAVOR OF HJR 52, NUCLEAR FREE ARCTIC.

TO: ALL MEMBERS OF THE HOUSE

FROM: JUDITH BROGAN
6943 GEMINI DRIVE
ANCHORAGE, AK 99504 PHONE: 337-6575

SUBJECT: HJR 52 - NUCLEAR FREE ARCTIC

I SUPPORT A NUCLEAR FREE ARCTIC. DO YOU? I WILL BE WATCHING.

61

TO: ALL LEGISLATORS
FR: DICK BRADFORD
P. O. BOX 98
PALMER AK 99645 745-4535
RE: REP. MIKE SZYMANSKI
RECIEVED A LETTER TO "MIKE" BRADFORD ALSO TO JAMES SPEER. WHOM I AM NEITHER. I DO SUPPORT HJR63 AND HB535 AND IN A RECENT LETTER TO YOU ASK WHAT IS BEING DONE TO RESOLVE THE PRIORITY SUBSISTENCE LAWS TO GET THIS STATE BACK TOGETHER?

TO: ALL LEGISLATORS

FROM: MARGARETT SPENCE, 7324 LINDEN DRIVE, ANCHORAGE, AK 99502, 243-4561

SUBJECT: SB 334, ESTABLISHING HATCHER PASS PUBLIC USE AREA

I URGE YOU TO OPPOSE SB 334 CREATING THE HATCHER PASS PUBLIC USE AREA. THIS IS AN IMPORTANT EXPLORATION TARGET FOR MANY MINERS. IN VIEW OF THE RECENT DECREASE IN STATE REVENUE AND EMPLOYMENT FIGURES, WE SHOULD ENCOURAGE PRIVATE INVESTMENT AND ACTIVITY FOR MINERAL INVESTMENTS.

FROM: JIM SPENCE, 7324 LINDEN DRIVE, ANCHORAGE, AK 99502, 243-4561

SUBJECT: SB 334, ESTABLISHING HATCHER PASS PUBLIC USE AREA

I URGE YOU TO OPPOSE SB 334 CREATING THE HATCHER PASS PUBLIC USE AREA. THIS IS AN IMPORTANT EXPLORATION TARGET FOR MANY MINERS. IN VIEW OF THE RECENT DECREASE IN STATE REVENUE AND EMPLOYMENT FIGURES, WE SHOULD ENCOURAGE PRIVATE INVESTMENT AND ACTIVITY FOR MINERAL INVESTMENTS.

TO: ALL LEGISLATORS

FROM: HURBERT M. BARTLETT, 810 S. COLONEY WAY, PALMER, AK 99645, 745-3900

SUBJECT: PORT REFORM

VOTE NO ON PORT REFORM, PLEASE.

DELIVER TO: J[illegible]

ORIGINAL
SENT: 03/21/86 TIME: 09:33
FROM: LIOANC
SUBJECT: POM
PRINT DATE: 03/21/86 TIME: 09:33

TO: ALL LEGISLATORS

FROM: LIZ CRAFT
8900 REDDON DRIVE
ANCHORAGE, ALASKA 99507 PHONE: 344-1581

SUBJECT: HB 532 - INSURANCE CAP

I STRONGLY OPPOSE HB 532.

TO: ALL LEGISLATORS

FROM: PALMA PECE, 810 S. COLONEY WAY, PALMER, AK 99645, 745-3900

SUBJECT: PORT REFORM

VOTE NO ON PORT REFORM, PLEASE.

FROM: ANN KELLY
3340 S WILEY POST LOOP
ANCHORGE, ALASKO 99503 PHONE: 248-4662

SUBJECT: HB 532

I STRONGLY OPPOSE HB 532. PLEASE VOTE AGAINST IT.

DELIVER TO: POM

ORIGINAL
SENT: 03/21/86 TIME: 09:07
FROM: LIOANC
SUBJECT: POM
PRINT DATE: 03/21/86 TIME: 09:07

TO: ALL LEGISLATORS

FROM: DAN O'HAIRE
2703 W 31ST
ANCHORAGE, ALASKA 99517 PHONE 248-3634

SUBJECT: WOLVES

GIVE THE WOLVES A CHANCE. PLEASE, NO EXTERMINATION.

...

FROM: LISA FITZPATRICK
843 W 11TH AVE
ANCHORAGE, ALASKA 99501 PHONE 278-1204

SUBJECT: HB 554

I FAVOR HB 554 AND REQUEST THE LEGISLATURE PASS IT AND APPROVE IT.

FROM: JALMER ALTO, 5733 JENIFFER CIRCLE, ANCHORAGE, AK 99504, 337-8837

SUBJECT: TORT REFORM

VOTE NO ON TORT REFORM. VOTE YES ON INSURANCE REFORM. I THINK YOU NEED TO INVESTIGATE PROFITS OF INSURANCE COMPANIES IN ALASKA.

* DELIVER TO: JPOM *
*
*
* ORIGINAL
* SENT: 03/21/86 TIME: 10:03
* FROM: LIOANC
* SUBJECT: POM
* PRINT DATE: 03/21/86 TIME: 10:03
*
****

61

TO: ALL LEGISLATORS

FROM: BETH ADAMS
2027 E 37TH AVE
ANCHORAGE, ALASKA 99508 PHONE: 563-4387

SUBJECT: TORT REFORM

PROTECT VICTIMS RIGHTS, REGULATE INSURANCE COMPANIES, DON'T REFORM THE TORT LAWS.

TO: ALL SENATORS AND REPRESENTATIVES

FR: THE FOLLOWING PEOPLE:

KAREN SHIGLER,BOX 566,KASILOF,99610
262-5541

SUZANNE SHAGGE,BOX 3075,KENAI,99611

MICHELE WOODWARD,BOX 4598,SOLDOTNA,99669

KATHI BROOMER,BOX 2675,SOLDOTNA,99669

MATT AUKONGAK,BOX 1698,SOLDOTNA,99669

PAUL OTIS,BOX 1771,KENAI,99611

NANCY LANE,BOX 574,KASILOF,99610

ROMAINE PERKINS,1105 4TH AVE,KENAI99611

MARILOU COULOMBE, BOX 133.SOLDOTNA,99669

MONA SALTENBERGER,BOX 2044,SOLDOTNA,99669

RE: HANDICAP FUNDING

PLEASE CONTINUE FUNDING FOR THE DD AND THE HANDICAPPED PROGRAM WITH FRONTIER TRAINING CENTER ON THE KENAI PENINSULA.

* ORIGINAL
* SENT: 03/[illegible]/86 TIME: 11:55
* FROM: JEAN MILLER
* SUBJECT: POM
* PRINT DATE: 03/21/86 TIME: 12:01

TO: ALL LEGISLATORS

FROM: STEVE DUNNAGAN (H)373-0188
P.O. BOX 874832 (W)267-5605
WASILLA, AK 99687

RE: TORT REFORM

PUTTING A CEILING ON MONEYS PAID TO VICTIMS OF MALPRACTICE SUITS WOULD POSSIBLYPREVENT THE VICTIM FROM RECOUPING MEDICAL EXPENSES. WE HAVE A DAUGHTER WHO WAS VICTIMIZED AND TO DATE 15 MONTHS LATER, OUR TOTAL MEDICAL BILLS TOTAL $309,000 AND CORRECTIVE SURGERIES ARE STILL PENDING. VOTE NO FOR TORT REFORM.

TO: ALL LEGISLATORS

FROM: ANITA ROWLEY (H)349-7208
251 PETTIS (W)276-3188
ANCHORAGE, AK 99515

RE: HB 532-CIVIL ACTIONS

I STRONGLY OPPOSE THIS BILL IN ITS ENTIRETY. PLEASE VOTE AGAINST IT.

TO: ALL LEGISLATORS

FROM: JAMES WALLER, 1567 EARLUK, ANCHORAGE, AK 99504, 279-7966

SUBJECT: HB 554, PRESUMPTIVE SENTENCING

I SUPPORT HB 554. I THINK THIS IS IMPORTANT.

TO: ALL LEGISLATORS

FROM: SHELIA MANSFIELD, 1009 W. 7TH, ANCHORAGE, AK 99501, 276-7887

SUBJECT: TORT REFORM

TORT REFORM WILL NOT LOWER INSURANCE RATES. IT WILL ALLOW WRONG DOERS, LIKE DRUNK DRIVERS, TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. IT WILL REDUCE A VICTIMS RIGHT TO BE FAIRLY REPRESENTED IN COURT. FIND OUT MORE ABOUT INSURANCE COMPANIES PROFITS IN ALASKA.

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* DELIVER TO: JPOM

* ORIGINAL
* SENT: 03/21/86 TIME: 13:37
* FROM: BARBARA NORRELL
* SUBJECT: FOM
* PRINT DATE: 03/21/86 TIME: 13:39

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67

TO: ALL LEGISLATORS

FROM: GEORGE DICKSON, 1009 W. 7TH, ANCHORAGE, AK 99501, 276-7887

SUBJECT: TORT REFORM

I AM A LAWYER AND HAVE CASES IN MY OFFICE WHERE DRUNK DRIVERS AND (YES) NEGLIGENT PHYSICIANS HAVE RUINED PEOPLES' LIVES. YOU SHOULD LET JURIES DECIDE ON A CASE BY CASE BASES HOW VICTIMS ARE TO BE COMPENSATED. PLEASE VOTE NO ON TORT REFORM.

TO ALL SENATORS AND REPRESENTATIVES

FR: BARBARA BROWN,BOX 1232 KENAI,99611
-3364

RE: hb 554 SENTENCING

I URGE YOUR SUPPORT OF HB 554. IT IS IMMORAL TO KEEP MEN IN PRISONS AFTER THEY HAVE BEEN REHABILITATED SIMPLY TO FURTHER PUNISH THEM. IT IS A SENSELESS WASTE OF TAXPAYERS MONEY TO NEEDLESSLY KEEP MEN IMPRISONED DURING THIS TIME OF BUDGET PROBLEMS.

TO: ALL SENATORS AND REPRESENTATIVES

FR: BARBARA BROWN,BOX 1232,KENAI,99611
283-3364

RE: HB 104 GOODTIME

DURING THIS TIME OF DECLINING REVENUE THE STATE BUDGET NEEDS TO BE CUT HB 104 WOULD ALLOW THE EARLIER RELEASE OF INMATES THAT OBEY PRISON RULES. I URGE YOUR SUPPORT OF THIS BILL AS A MEANS OF REDUCING STATE SPENDING.

TO: ALL LEGISLATORS

FROM: RONALD LINDER, 950 BENCH, ANCHORAGE, 99504; HM, 337-2277

RE: HB 554, PRESUMPTIVE SENTENCING

I AM STRONGLY OPPOSED TO HB 554. THE BILL BENEFITS ONLY CRIMINALS AND NOT LAW BIDING CITIZENS.

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: KENNETH SCHOENBERG
P.O. BOX 111272
ANCHORAGE 99511
345-0504

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I URGE THE LEGISLATURE TO VOTE NO ON TORT REFORM BILL BECAUSE IT DOES NOT PROTECT THE VICTIMS RIGHTS ESPECIALLY IN MEDICAL MALPRACTICE MATTERS. THE BILL NEEDS A SECTION TO FORCE MEDICAL INCOMPETENTS OUT OF BUSINESS AND INSURANCE RATES WOULD DROP FROM THAT. THANK YOU.

DATE: 03/25/86 TIME: 14:20:28 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: LEONARD HACKETT
P.O. BOX 110489
ANCHORAGE 99511
344-2915

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

VOTE NO ON HB 532. I DON'T WISH TO LOSE MY RIGHTS.

DATE: 03/25/86 TIME: 14:17:17 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: ROBERT HALL
310 K. #405
ANCHORAGE 99501
276-2265

BILL NO: NONE

SUBJECT: TORT REFORM MEASURES

MESSAGE:

MOST VICTIMS WILL SETTLE AS EARLY AS POSSIBLE. INSURA ANIES
AND DEFENSE ATTORNEYS ARE TO BLAME FOR UNNECESSARY DL
EXPENSES BY LEGISLATION REQUIRE DEFENDANTS TO PAY PLA CTUAL
ATTORNEYS FEES WHERE THE DEFENDANT REFUSES A SETTLEMEN
OFFER AND THE PLAINTIFF SUBSEQUENTLY OBTAINS A LARGER AWARD
AT TRIAL.

DATE: 03/25/86 TIME: 14:00:36 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JANET DUNNAGAN
P.O. BOX 874832
WASILLA 99687
373-0188

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

VOTE NO ON TORT REFORM. PROTECT THE VICTIMS. HOW CAN A PRICE BE PUT ON HUMAN LIFE WITHOUT WEIGHING CIRCUMSTANCES. VICTIMS' RIGHTS MUST BE PROTECTED IN ORDER TO INSURE COMPENSATION FOR THE HIGH PRICE OF MEDICAL SERVICES.

DATE: 03/25/86 TIME: 12:10:53 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: DARLA GROSSMAN
8026 ROSEBUD CIRCLE
ANCHORAGE 99502
349-3348

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

I AM OPPOSED TO TORT REFORM LEGISLATION. IT WILL NOT LOWER INSURANCE RATES BECAUSE IT IS NOT THE CAUSE, BUT WILL ALLOW WRONGDOERS IN DWI CASES AND THE LIKE TO NOT PAY THEIR FAIR SHARE. TORT REFORM WILL ONLY REDUCE THE VICTIM'S RIGHT TO BE FAIRLY REPRESENTED IN COURT.

DATE: 03/25/86 TIME: 11:51:39 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: TODD MELVIN
2616 N. TAHITI LOOP
ANCHORAGE, AK 99507
563-6131

BILL NO: SB 377

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I AM OPPOSED TO SB 377. I THINK THE PEOPLE SHOULD HAVE A RIGHT TO VOTE ON THIS BECAUSE WE, THE PEOPLE, ARE THE VICTIMS.

DATE: 03/25/86 TIME: 10:57:41 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: TODD MELVIN
2616 N. TAHITI LOOP
ANCHORAGE, AK 99507
563-6131

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I WANT TO OPPOSE HB 532. I THINK THE PEOPLE SHOULD HAVE A RIGHT TO VOTE ON THIS.

DATE: 03/25/86 TIME: 10:53:03 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: BURTON MARSCH
545 W. 11TH
ANCHORAGE 99501
N/A

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I AM AGAINST THIS BILL AND OPPOSE IT IN ITS ENTIRETY.

DATE: 03/26/86 TIME: 13:14:03 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: RAND DAWSON
BOX 111646
ANCHORAGE 99511
345-2687

BILL NO:

SUBJECT: HB 532/SB 382 TORT REFORM

MESSAGE:

AS A DEFENSE ATTORNEY WHO DOES SUBSTANTIAL INSURANCE DEFENSE WORK AND AS A MEMBER OF THE DEFENSE RESEARCH INSTITUTE. I BELIEVE THE BILLS ARE SIGNIFICANTLY FLAWED. THE ISSUES DESERVE GREATER CONSIDERATION AND WILL HAVE AN UNFAIR IMPACT ON TORT VICTIMS.

DATE: 03/26/86 TIME: 09:33:13 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: LLOYD ANDERSON
370 OCEAN VIEW DRIVE
ANCHORAGE 99515
345-6384

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

TORT REFORM LIMITS EVERYONES RIGHTS TO REPRESENTATION, LEGAL READDRESS, AND FAIR COMPENSATION IF INJURED BY WRONG DOERS. NO ALTERNATE SYSTEM TO TAKE CARE OF INJURED PROPOSED. INSURANCE COMPANIES SAY NO LOWER RATES WITH "REFORM". DON'T BE PUSHED INTO HASTY ACTION TAKING FROM THE INJURED AND CRIPPLED AND GIVING TO INSURANCE COMPANIES.

DATE: 03/26/86 TIME: 11:26:51 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: PAM KELLY
2000 BLUEBERRY STREET
ANCHORAGE, ALASKA 99503
N/A

BILL NO: HB 481

SUBJECT: VERDICTS/DAMAGES/LIABILITY IN CIVIL ACTIONS

MESSAGE:

TORT REFORM PENDING DESERVES DEFEAT IT'S TOUTED AS SOLUTION TO SPIRALING INSURANCE; INSURERS PROMOTE BILLS SAYING HIGH-TORT JUDGEMENTS BROUGHT ON COSTLY INSURANCE CRISIS. YET, THEY WON'T SAY BILL PASSAGE WILL YIELD LOWER RATES. WHY? INSURANCE REFORM INSTEAD IS WHAT ALASKA NEEDS.

DATE: 03/26/86 TIME: 16:16:59 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: MIKE SCHNEIDER
880 N STREET, SUITE 202
ANCHORAGE 99501
277-4551

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

THE EXPERIENCE OF ONTARIO, CANADA SHOWS THAT THIS LEGISLATION WILL NOT MAKE INSURANCE MORE AFFORDABLE OR MORE AVAILABLE. PLEASE VOTE AGAINST ANY LEGISLATION THAT REDUCES VICTIMS' RIGHTS.

DATE: 03/25/86 TIME: 16:03:34 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: ELAINE HAMES
1166 H STREET
ANCHORAGE, AK 99501
276-1136

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

STATE NEEDS TO REFORM INSURANCE INDUSTRIES REGULATIONS. INSURANCE COMPANIES NEED TO DISCLOSE MORE PROVE COST; MAY ALSO NEED TO WORK WITH HIGH COST OF LEGAL ASPECTS OF SETTLEMENTS. I RECOMMEND RESEARCH INTO INSURANCE INDUSTRIES, LEGAL FEES, ETC. TO FIND CAUSE FIRST, THEN WORK FOR SOLUTIONS.

DATE: 03/25/86 TIME: 15:11:16 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: SALLY BALLANTINE
8016 COUNTRY WOODS DRIVE
ANCHORAGE, AK 99502
344-5473

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

I OPPOSE THE TORT REFORM BILLS. TORT REFORM WILL NOT LOWER INSURANCE RATES. TORT REFORM WILL ALLOW GUILTY PARTIES, LIKE IN CASES OF DRUNK DRIVING, TO GET OFF WITHOUT PAYING WHAT THEY SHOULD PAY. TORT REFORM WILL REDUCE AN INNOCENT VICTIMS RIGHT TO BE FAIRLY REPRESENTED IN COURT BY COMPLETENT COUNSEL.

DATE: 03/25/86 TIME: 14:46:24 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: ROBERT HOOPER
6555 CIMARRON CIRCLE
ANCHORAGE, ALASKA 99504
338-3890

BILL NO:

SUBJECT: TORT REFORM ACT

MESSAGE:

TORT REFORM WILL NOT LOWER INCURANCE RATES, AND THE TORT REFORMERS ADMITTED. INSTEAD TORT REFORM WILL ALLOW WRONG DOERS IN CASES LIKE DRUNK DRIVING AND TOXIC MATERIAL ACCIDENTS TO GET OFF WITHOUT PAYING THEIR FARE SHARE. THUS TORT REFORM WILL REDUCE A VICTIMS RIGHT TO BE FAIRLY REPRESENTED IN COURT.

DATE: 03/25/86 TIME: 15:00:48 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: RONALD E. CUMMINGS
1200 W. 45TH
ANCHORAGE, AK 99503
562-0665

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

TORT REFORM WILL NOT LOWER INSURANCE RATES AND THE TORT REFORMERS WILL ADMIT IT. TORT REFORM WILL ALLOW WRONG DOERS IN CASES LIKE DRUNK DRIVING AND TOXIC MATERIAL ACCIDENTS TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. TORT REFORM WILL REDUCE A VICTIMS RIGHTS TO BE FAIRLY REPRESENTED IN COURT.

DATE: 03/25/86 TIME: 14:38:36 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: KURT L. MELVIN
2300 HOMESTEAD COURT, APT1-B
ANCHORAGE, AK 99507
561-8822

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

AND SB 377. I FEEL THE PUBLIC SHOULD BE ABLE TO VOTE ON THESE BILLS. I AM OPPOSED TO BOTH OF THESE BILL AND FEEL THE PUBLIC SHOULD HAVE A SAY IN THE MATTER.

DATE: 03/25/86 TIME: 14:32:18 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: JULIE A. CLARK
1111 OCEANVIEW
ANCHORAGE, AK 99515
345-5061

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

VOTE NO ON TORT REFORM. A YES WILL SHIFT THE BURDEN TO THE STATE TO SUPPORT AND REHABILITATE INJURIED VICTIMS OF DRUNK DRIVERS, TOXIC WASTE VIOLATORS, PRODUCTS MANUFACTURED AND OTHERS WHO DISREGARD THEIR DUTY TO ACT SAFELY. IT WILL NOT LOWER INSURANCE PREMIUM.

DATE: 03/25/86 TIME: 12:37:04 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE LABOR & COMMERCE
HOUSE JUDICIARY

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: GUITTA COREY
P.O. BOX 111272
ANCHORAGE 99511
345-0504

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I URGE YOU TO VOTE NO ON HB 532 AND TO OPPOSE TORT REFORM. HAVING PERSONAL EXPERIENCE IN THIS AREA, I FEEL THAT THE COMMON PERSON WILL HAVE NO OUTLET IN CASES OF MALPRACTICE. ANY LEGISLATION SHOULD INCLUDE A POLICING ACTION BY THE AMA

DATE: 04/01/86 TIME: 12:46:09 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: HOWARD C. LUTHER, JR.
13020 HOMESTEAD CRT
ANCHORAGE 99516
345-7010

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

HB 481 - I WOULD LIKE TO EXPRESS MY CONCERN WITH HB 532 AND HB 481 AND TO SOLICIT YOUR SUPPORT IN DEFEATING THESE BILLS. I STRONGLY SUPPORT LEGISLATION FOR AN ARBITRATION SYSTEM WHICH COULD LOWER INSURANCE RATES AND STILL PROTECT THE PUBLIC.

DATE: 04/01/86 TIME: 09:19:19 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: RICHARD WYLAND
7430 DECOY CIRCLE
ANCHORAGE 99502
248-7144

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I WANT TO VOICE MY OPPOSITION TO BOTH OF THESE BILLS.
(HB 532 AND SB 377).

DATE: 04/01/86 TIME: 08:58:12 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: SHARON WALLEEN
2041 BOREALIS
ANCHORAGE 99503
279-0860

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

TORT REFORM WILL NOT LOWER INSURANCE RATES AND TORT REFROMERS ADMIT THIS. IT WILL ALLOW WRONG-DOERS TO GET OFF WITHOUT PAYING THEIR FAIR SHARE. FIND OUT MORE ABOUT INSURANCE COMPANY PROFITS IN ALASKA. VOTE NO.

DATE: 03/28/86 TIME: 09:54:26 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: ELLIOTT DENNIS
4631 CARVEL DRIVE
ANCHORAGE 995?2
243-8174

BILL NO:

SUBJECT: TORT REFORM

MESSAGE:

PROPOSED TORT REFORM LEGISLATION WILL NOT LOWER INSURANCE RATES AND TORT REFORMERS ADMIT THIS. IT WILL LET DRUNK DRIVERS AND OTHERS WHOM MAIM, KILL OR DISABLE PEOPLE GET OFF WITHOUT PAYING FOR THE ACTUAL DAMAGES THEY CAUSE. TORT REFORM VICTIMIZES THE INNOCENT VICTIMS.

DATE: 04/01/86 TIME: 10:37:21 SENT BY: ANCHORAGE LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS

PUBLIC OPINION MESSAGE

TO: REPRESENTATIVE M. MIKE MILLER

FROM: GEORGE LOWRY
2249 KING RD
FAIRBANKS, ALASKA 99709
479-2851

BILL NO: HB 532

SUBJECT: LIMITATIONS ON CIVIL LIABILITY

MESSAGE:

I HAVE A SPINAL INJURY. THAT DOCTOR SAID I WILL NEVER WORK AGAIN. IF YOU PASSED THESE BILLS, WHO IS GOING TO MAKE MY LIVING. WILL THE STATE KEEP ME THE REST OF MY LIFE, OR WILL I BE FORCED TO SUE THE STATE BECAUSE THEY TOOK IT AWAY FROM THE GUILTY PARTY.

EOM/FRAN

DATE: 03/27/86 TIME: 14:02:31 SENT BY: FAIRBANKS LIO

COPIES TO: HOUSE MEMBERS
SENATE MEMBERS