

SCOMM

101A:17

Hollywood on the Breast Implant Saga

By JOHN MERONEY

Producers in Los Angeles are putting the finishing touches on a movie that has all the makings of a great drama: power, money, greed, corruption, the legal system, politics, envy and, of course, fleeting feminine beauty. Starting June 16, the Lifetime cable network will begin broadcasting "Two Small Voices," which chronicles the controversy over silicone gel breast implants. Actresses Mary McDonnell and Gail O'Grady portray Sybil Goldrich and Kathleen Anneken, real-life activists who waged a nearly decade-long publicity and legal war against Dow Corning and other implant makers.

Cecil B. DeMille once said that he could produce an epic motion picture from a single page of the Bible. If only he'd lived to see the breast implant saga. Approximately two million women have implants, but because of questions about the products' safety, and the host of infirmities the women and their lawyers blamed on them, the Food and Drug Administration banned them in 1992. Massive litigation followed, and in 1994 Dow Corning agreed to a \$4.25 billion settlement of implant-related class-action suits.

Both sides in the implant case view the controversy in stark terms: The plaintiffs believe they're fighting against an evil corporation that failed to warn them about the risks of implants, and that will stop at nothing for a profit. The manufacturers see it as a case of plaintiffs' lawyers using junk science to enrich themselves and force the company into bankruptcy. Guess which version TV opted to portray.

The executive producer of "Two Small Voices," Freyda Rothstein, started her career working for "Search for Tomorrow" and "Love of Life"; she has since produced such made-for-TV movies as ABC's "Betrayed: A Story of Three Women." In 1985, Ms. Rothstein paid the Legion of Doom, a group of teenage Texas vigilantes accused of several dozen incidents of violence—and who adopted the dyavolka as its symbol—for the right to its story. In the late '80s, she showed Ms. Rothstein a manuscript she had written about the personal process of [breast] reconstruction following a mastectomy and how her life had been made into a movie. Rothstein saw the dramatic potential, and she and her husband, Jim Macak, to

lot of doubts about taking on the project," especially in the wake of polls that showed, prior to the explosion in breast-implant litigation, that more than 90% of women with implants were satisfied with them. More bothersome still were the numerous scientific studies that failed to find any evidence that implants cause connective-tissue, autoimmune or other diseases that critics allege.

It was only after "many hours of conversation" with Ms. Goldrich and Ms. Anneken, Mr. Macak says, that he decided he was dealing with one of the great coverups of our time. "We're trying to spotlight two very determined, extraordinary women and their battle against corporate America," he says. "In my mind, the real perpetrators of junk science were officials at Dow Corning and other implant industries."

In fact, from the inception of "Two Small Voices," the debate over whether implants are responsible for any illnesses has never been the focus. Ms. Rothstein says the message is simple: "You can make a difference if you make a noise. There's a line in the show that says, 'If these were penile implants, maybe it would have gotten more attention.' It's the story of two women, raising your voice for a cause you care very much about, and effecting some change."

That change doesn't bear much scrutiny. Even though breast implants were never shown to cause health problems, Dow Corning was forced into bankruptcy. Ms. Anneken doesn't deny that "Two Small Voices" plays fast and loose with such facts: "Actually, a lot is left out so that it becomes fairly inaccurate, but I think the message it gets across is the right one."

In one of the most telling scenes, Ms. Goldrich's character, who has become increasingly outspoken about what she believes are the dangers of implants, suspects that someone has ransacked her Washington hotel room, and the garbage cans outside her California home. Her husband suggests these two events might be the work of a hotel maid, and a neighborhood dog. But Ms. Goldrich's character sees something more sinister at work. "You don't think it's a bit coincidental?" she says. "How do these guys at Dow Corning sleep at night?"

Ms. Anneken says such scenes are largely fictitious, all part of the movie's dramatic license: "That's sort of a made-up way to say, 'We thought we were being lied to.' The implication is, of course,

that corporate thugs are behind it all. 'We were worried that we'd be killed,' she says. 'I thought we would be killed. You saw the movie 'Silkwood'?'—the story of a self-styled whistle-blower at a plutonium plant whose death in a car accident activists called murder. 'That sort of thing.'

Critics may say these people have been spending too much time at the movies. But "that sort of thing," boosted by the power of television, shapes the national consciousness—an unfortunate but undeniable fact of our age. And just as regrettably, Hollywood shows no signs of losing interest in such tales. Casting is about to begin on "The Silicone Wars," an HBO movie about the two Houston plastic surgeons who invented silicone-gel implants. The movie's writer, John Stockwell, says it will dramatize "a good deal of shoddy negligence."

Producers like Ms. Rothstein have taught us a lot about how to keep the facts out of the way of a "true" story. Perhaps the strangest thing about "Two Small Voices" is that the breast-implants drama needed no embellishment—none, that is, if it were to be told as it happened.

Mr. Meroney is a writer in Washington.



Mary McDonnell, Gail O'Grady, Freyda Rothstein and Sybil Goldrich

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" TORT REFORM A REALITY"

After five years of contentious debate, it now appears that we have a comprehensive tort reform bill. It protects the rights of injured persons to fair compensation, while simultaneously creating a more hospitable climate for business and job creation.

The greatest accomplishment has been to limit both punitive and non-economic damages. In the past, the open-ended liability for punitive and non-economic damages, together with the apprehension of runaway juries, allowed personal injury lawyers to extract very large settlements in cases where liability was unclear. Although the caps are higher than in the original bill, the previous uncertainty largely has been removed.

The statute of repose has been shortened from 15 years to 10 years, to preclude the fundamental unfairness of having to defend old claims. Hospitals are no longer strictly responsible for independent contractor emergency room physicians. A person committing a felony may not sue for personal injuries sustained in the commission of the felony. Personal injury lawyers may no longer use "hired gun" expert witnesses in professional malpractice cases. Other changes will reduce frivolous litigation, and hold attorneys liable for up to \$50,000 if they violate the rules.

To: Mike Heatwole

Fm: Jim Sourant

April 25, 1997

Re: Reason for 1/2 of punitive damages to go to state:

The main purpose in having 1/2 of punitive damage awards going to the state is to reduce the incentive that exists for a potential punitive damage award. The hope for a windfall award causes people not to settle at reasonable compensatory levels. Rather, the incentive is to push the case at a cost to everyone, all the way through trial, in the hopes of hitting the lottery.

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TORT TRIUMPH

By Times editorial staff

With just two weeks remaining of this year's regular, 121-day session of the 20th Alaska Legislature, the unfinished business includes a state operating budget, capital budget and a few other important priorities on which agreement is close, but politics is impeding progress.

Nonetheless, it is not premature to call this session a winner.

That label was assured the other day when the Republican-led legislative majority and Democratic Gov. Tony Knowles reached consensus on major revisions of Alaska's civil litigation rules.

The tort reform bill, HB58, cleared the Legislature and has been forwarded to the governor. He is expected to sign it into law.

The legislation accomplishes the primary goals of discouraging frivolous lawsuits, placing reasonable limits on punitive damage awards and making the civil justice system more efficient. At the same time, it ensures that any person injured through the wrongful act of another can be fairly compensated by the wrongdoer.

House Majority Leader Brian Porter, R-Anchorage, is the primary sponsor of HB58. His accomplishment cannot be overstated in what has been a long, contentious battle -- chiefly between trial lawyers on one side and the business and medical communities on the other.

Soon after arriving in Juneau in 1993, Porter picked up the banner for tort reform and made it one of his primary goals. A number of other legislators over the past few decades championed tort reform, but Porter is the first to get the House and Senate to actually pass a reform bill. That achievement came last year.

However, Knowles vetoed it but pledged to work with Porter and the Legislature to come up with a better proposal, one that would accomplish the primary goals, but do so in a way that Knowles considered more appropriate to protect the rights of individuals.

The governor appointed a task force on civil justice reform that met over a number of months late last year. The panel came up with many recommendations -- a number of which are incorporated in the final version of HB58.

The leadership of the Republican-led majority merits recognition for ensuring that tort reform was part of its Commitment to Alaska in two successive Legislatures -- even though not every member of the majority shares similar enthusiasm for tort reform.

House Speaker Gail Phillips, R-Homer, the 19th Legislature's

Senate President Drue Pierce, R-Anchorage, and current Senate President Mike Miller, R-North Pole, kept their respective caucuses on course and produced the new bill that represents a good, fair compromise that will benefit all Alaskans.

Let's hope the bipartisan team effort that produced the tort reform compromise is a positive signal that the budgets and other priorities will be resolved as successfully.

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TORT REFORM LEGISLATURE SHOULDN'T GO OVERBOARD

By Daily News editorial staff

When this year's battle over tort reform hit the House floor Monday, it turned into a siege. Arguments over dozens of amendments kept lawmakers going until 3 a.m.

Tort reform is unavoidably controversial, but this year's deliberations needn't be so arduous. Diligent consensus-building by Gov. Tony Knowles' tort-reform task force last fall produced a modest package that should satisfy all but the most extreme elements on either side. While the package isn't perfect, its thoroughly debated and politically balanced recommendations should have formed the foundation of the Legislature's tort-reform work. Instead, House tort-reform point man Rep. Brian Porter of Anchorage stapled a handful of the task force's ideas to a longer wish list of hotly disputed changes.

Alaska's tort laws are not the most efficient or equitable system that human minds could possibly construct. The tort system evolved in bits and pieces over the years with little thought to the overall architecture. The Legislature tinkers a bit here, the courts make a sweeping change there, then voters decide to do a little construction of their own, and every so often the Legislature attempts a major makeover.

The result is a system where 33 to 60 cents of every dollar is lost to middlemen and transaction costs, according to the governor's task force. The huge expenses and uncertain prospects scare off injured people with legitimate complaints, while those being sued say the system often scares them into settling weak and dubious claims.

Careful and measured tort reform can make litigation seem less like an unpredictable lottery. It can reduce the social costs of the system without keeping victims from pursuing legitimate grievances.

The governor's task force made a good start. It dropped the most noxious aspect of last year's tort reform, the blatantly unfair retroactivity provision, which applied the new rules to pending cases. The task force package capped punitive damages, tightened the existing limit on noneconomic damages and shortened statutes of limitations. It also aimed to cut litigation costs by trying an experiment in alternative dispute resolution and fine-tuning litigation rules. Because recommendations were not endorsed unless they won support from a super majority of members, it was a balanced package that reflected a genuine search for common ground.

But when the task force recommendations hit the Legislature, they swiftly were put aside. Rep. Porter launched the debate with a far different package that included many changes rejected by the task force, while dropping the experiment with alternatives to litigation.

If legislators could wave a magic wand and create a tort system that handles disputes faster at less cost while preserving fairness, all sides would rejoice. But it's hard to throw out such a complex and deeply rooted system and build a better one from scratch. Bold tort-reform experiments such as no-fault auto insurance and workers compensation started off with great promise, but then lost popularity as a new set of problems emerged.

So, Alaska legislators are left trying to improve the tort system at the margins. Incremental changes in Alaska won't do a great deal to reduce insurance costs here, since insurance companies base their rates on wider experience throughout the country. But reforms like those from the governor's task force could bring somewhat more certainty to businesses and potential victims, speed up legal proceedings and reduce overall costs. To realize those gains, though, advocates of tort reform will have to be careful not to overreach.

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3.19.97

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LAWYERS PLAN EXXON AWARD SPLIT

By JIM CLARKE

The Associated Press

It will be at least two years, and probably longer, before the first dime of the \$5 billion Exxon Valdez punitive award reaches Alaska, but that hasn't stopped attorneys for people harmed by the spill from laying out their plan on how to distribute the funds.

At a news conference Tuesday, attorneys Dave Oesting and Brian O'Neill said they have given the U.S. District Court a complex matrix they have developed to get the money to the fishermen, Natives, business owners and property holders injured by the 11 million-gallon spill.

The plan calls for the 32,000 plaintiffs to divide the award, although not equally.

The most successful boat owners who worked Prince William Sound and Cook Inlet during the spill and after could collect up to \$1.3 million, O'Neill said. On the low end, some business owners only tangentially affected by the spill could receive checks for a few thousand dollars.

The lawyers stand to collect more than \$1 billion, a 20 percent fee that O'Neill said all of the 60 law firms involved in the case have agreed to.

Exxon spokesman Ed Burwell said the company had not seen the award distribution plan and would not comment on it.

The plan, if it is approved by U.S. District Judge Russel Holland, would compensate fishermen based on their previous harvests, the amount their boats and permits were devalued and other factors.

Thirty-nine fisheries in Prince William Sound, Kodiak, the Cook Inlet and Chignik are in line to receive money from the punitive award. The Upper Cook Inlet salmon drift fishery would claim nearly \$781 million, the highest share.

No one is going to collect anything until the 9th U.S. Circuit Court of Appeals hears Exxon's appeal of the Anchorage federal jury's 1994 verdict. The process began in February, and O'Neill said he expects the court to take up to two years to hear the appeal and rule on it. The loser could then appeal to the U.S. Supreme Court.

Oesting said he expects the process to take longer than two years.

Assuming the verdict stands, the \$4 billion left after attorneys fees could create an economic boom in the fishing communities where much of the money would be paid. The total annual payroll for all the state's workers is \$8 billion.

"It's not small change," said Neil Fried, an economist with the state's Labor Department. "Even in Alaska's league, \$4 billion is a huge amount of cash."

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3.24.97

Today's Anch. paper

THERE IS GOOD TORT REFORM, AND BAD; KNOW THE DIFFERENCE

By JEFF BUSH

JUNEAU -- Remember when everyone, except maybe ice cream salesmen, thought all cholesterol was bad? And everyone, except a few trial lawyers, thought any tort reform was good? Well, we now know that some cholesterol is actually good for you. And while almost everyone, myself included, supports reform of our civil justice laws, some tort reform actually is bad for you.

Tort reform comes in many shapes and sizes. Let's look at a typical lawsuit. Say Vic is walking across the street when he's hit by a car driven by Sue. His legs are crushed in the accident. Fortunately, Vic has health insurance to pay the \$200,000 hospital bill, but he can no longer work as a home builder and will have to get a lower-paying job as a clerk for an insurance agency. He'll also have to learn to live in pain the rest of his life.

Vic hires one of those trial lawyers he sees on TV and agrees to pay the guy a third of any settlement. The lawyer files suit and the case winds its way through the endless process of depositions, motions and medical examinations. Five years later, the case goes to trial and the jury awards Vic \$750,000 -- \$200,000 for his medical expenses; \$150,000 for lost wages, since he now works for less, and \$400,000 to him and his family for pain and suffering. Meanwhile, Sue's insurance company has shelled out another \$250,000 to its \$200-an-hour attorney to defend the case.

Before Vic gets a penny, the trial lawyer deducts his third and all his expenses, such as thousands of pages of depositions at \$10 per page and medical experts at \$350 per hour. The money awarded for medical expenses is used to reimburse Vic's insurance carrier. Vic has been crippled for life, and if he's lucky, he and his family will get about \$200,000 in compensation. Almost 60 percent of the money paid by the insurance company has been eaten up by the "system."

The problem seems obvious; the solutions, however, are not.

Good Tort Reform tries to reduce that 60 percent figure. That was the approach taken by Gov. Tony Knowles' Task Force on Civil Justice Reform and included in the governor's tort reform bill. The bill includes a pilot project to require most cases to go to mediation or other alternative dispute resolution, rather than fester for years in the courts. Another proposal would require cases filed in District Court to go to trial within a year and reduce the amount of money spent on depositions and other legal mumbo-jumbo. A third proposal would encourage parties to settle cases early.

Bad Tort Reform doesn't reduce the 60 percent figure but instead puts limits on compensation. For instance, Rep. Brian

Brian
we need
to respond
with a letter
to the editor?
Jim,
let's go with
the speed
PP.

Porter's tort reform bill, HB 58, places a "cap" on non-economic damages, which in this case would have reduced the jury's award by \$100,000. Guess whose share that comes out of? (Hint: Neither the lawyers nor the insurance company gives up much.)

Bad Tort Reform also lets a defendant point the finger at anyone. Sue could blame the state for failing to properly maintain the road, or her doctor for giving her medication that made her drowsy, or the Japanese maker of her car because something was wrong with the steering, or even the used car salesman she bought it from.

The courts currently deal with these kinds of claims by requiring the plaintiff to bring that carmaker or salesman into court so the judge and jury can weigh the evidence and decide the appropriate level of responsibility. But under Bad Tort Reform, the more people whom Sue and her lawyer can point a finger at, even if they are not around to defend themselves, the more money Sue's insurance company gets to keep. And, of course, the less Vic gets.

Bad Tort Reform even allows some people who hurt others to walk away scot-free. Say Vic is parking his snowblower and his garage roof collapses on top of him. Whether Vic could recover anything from the builder would depend, under Porter's bill, on how old the garage was. If it was 7 years old, no problem; 8 years, tough luck, Vic.

So when someone tries to tell you that you should support some bill just because it's tort reform, ask if it's good tort reform or bad tort reform. You already do the same with cholesterol -- why else would anyone eat frozen yogurt instead of Ben and Jerry's?

Jeff Bush is Deputy Commissioner of Commerce & Economic Development. He was a member of Gov. Tony Knowles' Civil Justice Reform Task Force.

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TORT REFORM HEARING DEGENERATES INTO FISTICUFFS

By NATALIE PHILLIPS

Daily News reporter

The ongoing tussle over efforts to rewrite Alaska's laws regarding injury lawsuits degenerated into some kind of physical combat at a legislative hearing in Anchorage on Monday.

With blows alternately described by the two combatants and witnesses as a face slap, a pop in the chin, a sucker punch and a backhanded slap, it was unclear exactly what indeed happened at the Anchorage Legislative Information Office. Staffers there aren't talking.

"We go in and out of the room a lot of time," said Pam Varni, executive director of the Legislative Affairs Agency. "We weren't there for the entire time, so we are uncomfortable commenting."

Even who struck first -- lawyer Steve Conn, executive director of the Alaska Public Interest Research Group, or Frank Dillon, executive director of the Alaska Trucking Association -- is a matter of some dispute. Witnesses and stories are divided along tort-reform party lines.

Witnesses who favor tort reform say Conn, a tort reform opponent, struck first. Those against tort reform say Dillon, a reform proponent, started it.

At least no one is threatening to sue.

The skirmish broke out at the downtown legislative office during a hearing on House Bill 58, sponsored by Rep. Brian Porter, R-Anchorage. The tort-reform measure would restrict how much plaintiffs could collect in injury accidents and under what circumstances they could sue.

About a dozen Anchorage residents had gathered at the Anchorage office for the Monday hearing, which started at 1:30 p.m. Debra Gravo, executive director of the Alaska Academy of Trial Lawyers, said she left shortly before 3 p.m. and "didn't see any fists flying." But she noticed that Dillon, 46, and Conn, 54, "were giving each other dirty looks."

Initially Conn wouldn't comment about the incident and referred calls to his attorney, Bob Wagstaff. When Dillon heard Conn had an attorney, he laughed.

"The irony of this is not lost on me," Dillon said. If the matter went to court, though, it wouldn't be a tort, Dillon said. "This is a case of assault and battery. This is a probably a criminal case."

Dillon has testified before in favor of tort reform, but said he had never encountered Conn until Monday. He said that

throughout his testimony Monday, Conn had "gestured in rather rude ways from the back of the room," so afterwards he approached Conn.

"My comment to him was, 'What is your problem?' and he basically popped me in the chin. I responded immediately with the back of my hand, opened," Dillon said. "I backhanded him to keep him away."

"I hate to brag about this, but the fact of the matter is he is a little guy. I didn't go over there to fight with him," said Dillon, who has about 80 pounds on Conn.

"He called me a scumbag Republican," Dillon added. "He thought that was some kind of an insult, but it was not so insulting because I may be a scumbag, but I am not a registered Republican. ... It was a bizarre event as far as I am concerned."

Al Tamagni Sr., a member of the National Federation of Independent Businesses and also a supporter of tort reform, backed Dillon's story.

"Frank was getting ready to leave and walked over to (Conn) and said, 'Do you have a problem with me?' " Tamagni said. "Steve Conn hauled off and slapped him in the chin. Frank slapped him back." Tamagni called Dillon's move self-defense.

"If (Conn) is going to file a lawsuit, this is exactly what we are talking about that is not acceptable," Tamagni said. "The truckers would have to hire an attorney to defend their director for defending himself."

Conn, who considers the tort reform efforts the "civil rights fight of the '90s," disputed Dillon and Tamagni's story. And, he said, he did not call Dillon a "scumbag Republican."

"This is like some school-boy nonsense," Conn added. "He slugged me; I did not hit him. I did wave a finger in his face and he didn't like that. So out of nowhere I got sucker-punched."

Scott McIntyre, an opponent of tort reform, said he was sitting right behind Conn.

"The trucker dude got up and stuck his face right in Steve's face and said, 'Do you want to take it outside?' " McIntyre recalled. "At that point, with this guy's face right in his face, Steve lifted his right hand and touched the guy on the bottom of the chin. It wasn't forceful. Steve is left-handed."

"The guy said, 'Did you touch me?' Then he slapped Steve on the left cheek," McIntyre said.

Conn said he was disappointed the skirmish was detracting from the real issues of tort reform. "I want to get back to business of talking about the issues," Conn said. "I most assuredly am not going to pursue it in anyway. I'm not going to sue. The whole thing was Looney Toons."

On the floor of the House the next day, Porter, author of the disputed bill, jested that a fellow tort reform supporter had

"gone beyond the call of duty." Later, he thought better of it. "I probably shouldn't have said anything because I only have secondhand information about what happened," he said.

Though Varni, of the Legislative Affairs Agency, wasn't taking sides in the fight, she questioned Conn's behavior. She said she will send a letter to Conn, asking him, in the future, "to conduct himself in the proper manner for testifying."

The letter has nothing to do with the fight, she said. Conn violated hearing rules, she said.

"He is not supposed to interrupt someone when they are trying to testify," she said.

2.27.97

A16

THE WALL STREET JOURNAL

REVIEW & OUTLOOK

ABA v. Business

The American Bar Association has gotten a lot of heat, and deservedly so, for its loony forays into non-legal matters. What's the ABA doing supporting abortion rights, endorsing affirmative action and now calling for a death penalty moratorium? Congressman Chris Cox wrote a trenchant article for the Weekly Standard recently exposing in detail how the ABA's liberal agenda skews its evaluations of judicial nominees. But another area where the nation's largest organization of lawyers has gone off the tracks hasn't gotten nearly enough attention—the ABA is actively promoting an anti-business agenda.

At the same meeting earlier this month where the ABA adopted the anti-death penalty plank, its House of Delegates also endorsed a resolution on class actions. The resolution favors making it easier to certify class actions for settlement purposes, and opposes a proposal to rein in "coupon" settlements unless the "litigation's probable deterrence value" is taken

to pass civil justice reform as part of the "Contract with America." Who can forget the ABA president describing the new GOP Congressional majority in 1995 as "reptilian bastards."

Some will no doubt say: Well what do you expect from a bunch of lawyers? They want to preserve their honey pot, so they don't want to change the tort system. A realistic, if cynical, assessment. But the ABA itself claims that it's not merely a special pleader for lawyers; after all, it somehow finds the moral authority to instruct the rest of America on how to run foreign and social policy. The group even has a quasi-governmental function: It certifies lawyers and law schools, and regulates their conduct. The ABA also formally advises the President and Senate on judicial nominations. By backing the plaintiffs' bar, the ABA is not only casting doubt on its ability to carry out these functions fairly and impartially, but it's also sticking it to a large portion of its membership: lawyers who work for

THE WALL STREET JOURNAL MARCH 14, 1997

Bold Reform = Political Success

Some Republicans in Congress have questioned whether they should ever again attempt another bold reform agenda like the Contract With America. Many appear to be shell-shocked at the demagogic attacks unleashed against it. They might look north to Canada for a clue as to how an electorate will respond if a party actually *delivers* on its promises.

Ralph Klein, premier of Alberta, won landslide re-election this week after administering his economically faltering province a strong dose of tough love. In four years, he slashed public spending by 20%, including sensitive areas such as education, welfare and health. Many government programs have been privatized, public sector pay hasn't gone up in six years and there are now 25% fewer government employees. Welfare rolls have fallen by 56% as eligibility has been tightened and the economy has boomed.



Ralph Klein

Alberta has the lowest taxes and best performing economy in Canada, and the province accounts for one-third of Canada's job growth even though its 2.8 million people represent only a tenth of the population. This once debt-ridden province will boast a U.S. \$1.6 billion surplus this year, and Alberta plans to wipe out *all* its debt by the year 2005.

Mr. Klein says his policies aren't revolutionary and merely represent sensible, common-sense government. "Four years ago people said we were reckless," he told supporters after his victory. "Tonight the people of Alberta

said we were right." Mr. Klein's Progressive Conservatives took 63 of the 83 seats in the provincial legislature and posted an 18-point victory over the opposition Liberals. Outside of the government-dependent capital of Edmonton, Mr. Klein's party won all but two seats.

Public opinion in Alberta has certainly changed after four years of Mr. Klein's management. In this election, he even faced opposition from the right. The Social Credit Party won a surprising 7% of the vote by campaigning for privatizing hospitals and criticizing Mr. Klein for going along with a federal plan to prop up Canada's social security program with higher annual premiums. Mr. Klein responded by pledging to not raise provincial taxes and backed that up by proposing legislation to require voter approval of any new tax increases, an increasingly popular idea in the U.S.

Mr. Klein, a former TV reporter, has an easygoing, populist style that goes down well with voters. But analysts say his success, along with that of fellow Premier Mike Harris in Ontario, has come because they have moved with such speed that special interests had too much to fight against. They both drew on the advice of Sir Roger Douglas, the New Zealand finance minister who liberated his nation's economy in the 1980s: "Hit them hard. Hit them fast. Don't blink. No sacred cows."

Of course, Mr. Klein had the advantage of Canada's parliamentary system, which doesn't include all the checks and blocking devices of the U.S. system. Nonetheless, his astonishing political and economic progress provide some lessons that ever-timid U.S. reformers should take to heart.

Date	3.31.7	# of pages	1
To	DR BROOKE		
From	JIM SOURANT		
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JUNEAU EMPIRE

Fri 3.28.97

BUSINESS

Breast-implant trial opens

■ First class-action trial is against Dow

By JANET McCONNAUGHEY
ASSOCIATED PRESS

NEW ORLEANS - Lawyers for Dow Chemical Co. denied that the firm hid research indicating that silicone breast implants were dangerous, a claim made by the plaintiffs during opening arguments of the nation's first class-action trial concerning the implants.

Thousands of women say their implants leaked and caused illnesses, including arthritis, lupus and scleroderma.

Plaintiffs' attorney John O'Quinn said Thursday that Dow failed to test silicone enough to prove that it was safe to use in the body and hid tests indicating it was dangerous.

"This case is about ... values ... putting safety ahead of profit," he said.

Dow attorney Lorna Propes countered that Dow never hid anything and that Dow Corning Corp., which made the implants, relied on hundreds of studies that said silicone was safe. By the time Dow Corning began making breast implants in 1964, 236 published studies had reported that silicone was safe, she said.

After opening arguments Thursday, the trial recessed until

Dow attorney Lorna Propes said doctors have known since implants were first proposed that silicone could seep out through the plastic covering.

Wednesday morning.

The eight plaintiffs in this stage of the trial - the first in the country to win class-action status - represent at least 1,260 Louisiana women who claim that Dow implants leaked or ruptured, causing health problems. The plaintiffs have not specified how much they are seeking.

Most breast implant lawsuits were frozen when Dow Corning filed for bankruptcy protection. This one is going forward because the women sued Dow Chemical, which never made breast implants but owns half of Dow Corning, once the largest maker of silicone gel implants. Corning Inc. owns the other half.

Dow Chemical said that it never conducted any tests to see if silicone was safe for breast implants, and that Dow Corning contracted with other companies for the tests.

Propes said doctors have known since implants were first proposed that silicone could seep out through the plastic covering,

but that studies have shown that silicone does not cause diseases.

"You must be thinking, 'Then why are we here?'" she said. "The answer is lawsuit science. Litigation doctors ... make a fortune going around and testifying in breast implant cases."

Several manufacturers proposed a \$4.25 billion national settlement in 1994, with Dow Corning agreeing to pay \$2 billion. But the settlement collapsed last year.

Last week, a judge in Detroit dismissed claims brought by Michigan women, holding that Dow Chemical cannot be held responsible for possible ill effects of silicone breast implants. Dow Chemical also has been freed from breast implant claims in California and New York.

The judge split the case into separate trials. The trial that began Thursday is against Dow Chemical. Future trials are to be held against Bristol-Myers Squibb and Baxter Healthcare Corp. and 3M.

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THE WALL STREET JOURNAL

REVIEW & OUTLOOK

ABA v. Business

The American Bar Association has gotten a lot of heat, and deservedly so, for its loony forays into non-legal matters. What's the ABA doing supporting abortion rights, endorsing affirmative action and now calling for a death penalty moratorium? Congressman Chris Cox wrote a trenchant article for the Weekly Standard recently exposing in detail how the ABA's liberal agenda skews its evaluations of judicial nominees. But another area where the nation's largest organization of lawyers has gone off the tracks hasn't gotten nearly enough attention—the ABA is actively promoting an anti-business agenda.

At the same meeting earlier this month where the ABA adopted the anti-death penalty plank, its House of Delegates also endorsed a resolution on class actions. The resolution favors making it easier to certify class actions for settlement purposes, and opposes a proposal to rein in "coupon" settlements unless the "litigation's probable deterrence value" is taken into account. In other words the ABA thinks the public is being well-served by settlements—such as those in the notorious Ford Bronco II and airline price-fixing cases—where the plaintiffs' lawyers reap millions while their ostensible clients collect coupons worth almost nothing.

Nobody should be surprised, since the ABA has a long record of opposing any effort to improve the tort system. According to a summary compiled by the Federalist Society, the ABA opposes a loser pays rule; opposes any limits on pain and suffering awards; opposes a "ceiling" on medical malpractice damages; and opposes product liability reform. In effect, then, the ABA wants to let plaintiffs' lawyers continue extorting billions from American companies.

As if to add insult to (personal) injury, the ABA has also gone on record favoring a long list of government mandates on business: universal health care, protection from discrimination for HIV patients, the Family and Medical Leave Act and the like. The group has even called for the creation of "a federal agency to advocate the views of consumers," a long-standing Naderite pipe dream. Is there any *pro*-business idea that finds favor with the pooh-bahs of the ABA? Oh yes, there is one: The ABA supported Nafta.

The ABA resolutions aren't just empty words. The ABA has a corps of paid lobbyists who are authorized to support the stances taken by its House of Delegates. And these lobbyists *were* active in opposing Republican efforts

to pass civil justice reform as part of the "Contract with America." Who can forget the ABA president describing the new GOP Congressional majority in 1995 as "reptilian bastards."

Some will no doubt say: Well what do you expect from a bunch of lawyers? They want to preserve their honey pot, so they don't want to change the tort system. A realistic, if cynical, assessment. But the ABA itself claims that it's not merely a special pleader for lawyers; after all, it somehow finds the moral authority to instruct the rest of America on how to run foreign and social policy. The group even has a quasi-governmental function: It certifies lawyers and law schools, and regulates their conduct. The ABA also formally advises the President and Senate on judicial nominations. By backing the plaintiffs' bar, the ABA is not only casting doubt on its ability to carry out these functions fairly and impartially, but it's also sticking it to a large portion of its membership: lawyers who work for businesses.

A bunch of Fortune 500 general counsels were sufficiently alarmed about the ABA's drift that they convened a summit meeting last year with the organization's leaders. The powwow didn't accomplish much. The ABA, for instance, still refuses to adopt a proposal limiting contingency fees endorsed by heavyweights ranging from Robert Bork to Robert Pitofsky. This group wants the ABA, which already bars "unreasonable" fees, to stipulate that it's unethical for a lawyer to take one-third of a plaintiff's award if the case was so simple that he didn't have to do much work or take much risk. No dice. Apparently the ABA is more interested in opposing nuclear weapons than contingency fees, which happen to be the engine driving much of the liability explosion of recent decades.

But then the ABA doesn't believe there is a liability explosion. Not long ago, the group put out a lengthy pamphlet of "Facts About the Civil Justice System," which claims there hasn't been an increase in personal injury suits. As evidence, the pamphlet points out that tort litigation has slightly decreased since 1990. The brochure doesn't bother to mention another fact: tort filings have increased dramatically since 1984.

Such selective use of evidence reveals the ABA's deep and abiding bias in favor of runaway litigation. Given that slant, it's hard for us to see why anybody should take seriously the ABA's opinions on judges or any other subject.

Legal services and tort reform: The poor in jeopardy

By JOE SONNEMAN

Cuts to Alaska Legal Services budgets and proposals for tort reform both seem likely to pass the legislature this year — and are equally likely to harm less wealthy Alaskans. This article reviews facts of Alaska's oil wealth and supposed fiscal gap; reviews the gap between reality and ideology or perception; notes political realities; and suggests organized reading and letter-writing as a possible action plan, because lawyers are trained to read and write and because letters alone may be effective now.

Oil income basics

The flow of Alaska's North Slope oil, beginning in June 1977, was projected to last only 13 years. But nearby oil fields and new oil recovery techniques keep oil flowing even now. The State of Alaska gets the industry-standard one-eighth royalty, based on wellhead prices (market price less transportation costs). This works out to about \$150 million in state income annually for each \$1 in the per-barrel price of oil. These oil royalties account for about 85% of total state government revenue.

Fiscal gap?

In recent years, some people claimed the state had a fiscal gap—a difference between the state's expenses and its projected income—which, over time, would prove financially harmful. Some economists — such as David Resume and Gregg Erickson — did not believe the gap existed or was significant, given the State of Alaska's various 'savings accounts' such as the \$20 billion Permanent Fund.

Oil price projections

The fiscal gap appears more likely when future state royalty income is based on a projected oil price of \$16 or \$18.50 per barrel. But for reasons which once included Saddam Hussein's burning of Kuwaiti oil, oil prices seem to keep going up, increasing state royalties and revenues, even as the Legislature keeps saying it needs to cut state budgets because of the fiscal gap. On March 7, Texaco's president and CEO said on Louis Rukeyser's "Wall Street Week" TV show that oil

prices were now in \$30-\$23 price range.

Fiscal gap revisited

If Texaco's CEO is right, the average price of oil is about \$21.50, or about \$5 per barrel more than the \$16.50 estimate the state usually uses. That extra \$5 per barrel translates into an extra \$350 million per year for the state of Alaska—an amount more than enough to bridge the alleged fiscal gap. This means further government cuts are not necessary for fiscal reasons.

Ideology rules

But Legislative leaders, claiming cuts of \$70 million in last year's budget, plan to cut an additional \$60 million this year. Why? Why plan additional cuts when income is increasing because oil prices are higher? Might ideological concepts underlie actions apparently inconsistent with fiscal realities? Is this part of an organized effort to cut public budgets, supposedly to save more in taxes Alaskans do not now pay?

Victims of excessive cuts

Unnecessary budget cuts do not apply to all Alaskans equally, if only because government programs help most those who cannot help themselves. Cuts in programs thus most affect those least able to withstand those losses. Among the affected are two groups of Alaskan attorneys' clients: Legal Services' clients and contingency fee clients.

Alaska Legal Services

Some in Congress and some in Alaska's Legislature have a long-run plan to end Legal Services — government-paid lawyers who provide civil litigation services for the poor (as public defenders do for indigent defendants in criminal law). In Alaska, the Legislature cut ALSC to \$280,000 in fiscal year 1976, then to \$100,000 in FY 97. In response, ALSC has closed offices, laid off employees, put people on part time, and increased eligibility requirements, among other strategies. Now, the Governor's budget only proposed \$100,000 for FY 98, so further cuts risk ending ALSC altogether.

Tort reform?

Alaska's Legislature has tried for several years to enact another round of

tort reform. Two years ago, the bill did not pass; last year, it passed, but the Governor vetoed it. This year, after the report of a bi-partisan task force, the law is likely to pass, with or without a veto that itself seems unlikely.

Reality: Reforms not needed

Alaska is one of just nine states which already cap punitive damages. Alaska is the only state to use the so-called "English rule" (Rule 82), under which litigation is discouraged by forcing losers to pay some part of winners' costs and fees. A *National Law Journal* article showed that Alaskans filed about 400 civil cases per 100,000 population in 1985 but about 160 cases per 100,000 in 1993. The bi-partisan Tort Reform Task Force found only 16 state court punitive damages awards in the last 10 years, of which only one exceeded \$700,000. Statistics like these suggest Alaskans now need relaxation rather than reform in tort laws.

Subjective drive for reform

The task force said no punitive damage problem now exists, except in the minds of the business community. On a recent "Gavel-to-Gavel" TV show, Rep. Brian Porter (R-Anch; House majority leader and a principal tort reform proponent) did not refute Rep. Croft's (D-Anch) suggestion that Porter wanted the tort system to work like workers' comp: prompt payment (of lesser amounts), with less money to lawyers and system participants. Porter said that the bi-partisan task force (he'd been a member) did not get all the numbers. Porter also admitted that contingency fee arrangements allow those without money to seek legal redress, but he did not answer a person who asked how lawyers were to be cut out of the process (for example, if punitive damage awards went to the state rather than to the plaintiff). Porter still wanted change, claiming it would lower insurance rates.

Independent opposition to tort reform

Steve Conn, executive director of the Alaska Public Interest Research Group (AKPIRG), spoke to the Egan Forum (a Juneau Democratic luncheon group) March 5. His theme was that

opposition to tort reform is to the '90s as support of civil rights was to the '60s. He argues that the bill will "shift costs to the victim and the community, forc[ing] the victim to settle for less ... mak[ing] it less likely a victim will find an attorney...." Conn noted that AKPIRG, being independent, did not face accusations of self interest so often leveled at attorneys who oppose tort reform. He also said that no reduction in insurance rates was guaranteed or even likely to follow tort reform, because Alaska's population is too small to much affect insurance rates. Conn says that the real or imagined tort law "crisis" was instead a "cover for ugly special interest legislation."

Torts deformed?

According to Conn, the bill would ignore inflation and lower existing 1988 pain and suffering caps from \$500,000 (1988 dollars) to \$300,000 (1987 dollars.) The bill would also cap punitive damages at three times compensatory damages (or, \$600,000), directing half of any punitive damages to go to the state, not the victim. The bill requires periodic payments—which, Conn says, disrupt eligibility of those Alaskans otherwise entitled to public assistance. The bill further exempts hospital emergency room attendants hired as independent contractors, so patients between screams need ask to their doctors' employment status.

O.J. in Alaska?

One way of thinking about tort reform is to ask how the O.J. Simpson case would come out if the trial had been in Alaska under the proposed bill. I called that question in to the "Gavel-to-Gavel" show. Rep. Croft answered. He said that as Nicole did not have a job, her economic damages very likely might be zero. The proposal caps non-economic damages at \$300,000 and punitive damages at three times compensatory damages. The result: an O.J. trial in Alaska under this bill would yield no more than a \$1.2 million judgment, which O.J. perhaps could pay. Would Alaskans want that result?

Continued on page 7

Legal services and tort reform

Continued from page 5

Exxon Valdez

Another popular question is: "How much would Exxon have to pay under this proposal, had the *Exxon Valdez* gone aground when Alaska tort law was thusly 'reformed'?" I leave the answer for you to work out, but suggest that Exxon could have been assessed far less than \$5 billion. Would Alaskans have wanted that result?

Veto unlikely?

Alaskan lawyers should not think that the Governor will automatically veto tort reform. According to his January 23 letter to Alaskans, the Governor called the Task Force recommendations "a real breakthrough" which would "increase the efficiency of the courts and access to justice, and reduce frivolous lawsuits and defenses." Remember, the Governor appointed the task force, whose members included legislators desirous of reform. His letter asked for support of the bill and for community work to ensure passage; he was apparently encouraged by, *inter alia*, proposals for shorter statutes of limitation.

What to do?

Both possibilities—of Legal Services cuts and of tort reform enactment—are similar: They most affect people with the least income; and a strong Republican majority in both houses of the Alaska Legislature may be able to pass them. And because the Governor proposed only \$100,000 for ALSC this time and sent out a letter urging support for tort reform, these measures are similar in another, equally unfortunate way. Faced with this difficult position, what is to be done?

Action plan

At a prior Egan Forum, I asked how new legislators would recommend increasing ALSC budgets. Rep. Hempel (D-Anch.) said that statewide opposition had to contact legislators. Sen. Lincoln (D-Rampart), in a 1996 Egan

Forum appearance, said that handwritten (not pre-printed) letters get the most attention: phone calls are too readily forgotten or mis-translated by staffers, and electronic POMs (public opinion messages) too frequently are electronically discarded or disregarded. AKPIRG's Conn said that Alaskans have first to read the tort reform bill, before they object to its provisions. The Juneau Bar promised ALSC \$2,000 directly, but, knowing that the Congress and Legislature can cut faster than JBA can add, I got the JBA also to create a separate fund to which members can contribute. The fund is for hiring lobbyists and community organizers—effective activities which Congress barred LSC from doing with its own money, whether or not that money comes from government sources.

Write a letter, ask friends to write more

The word from those who seem to know is to write letters and get others to write still more letters. Letters should be in the writer's own words and tone of voice, addressed to the writer's own state senator, legislators, and the Governor. But lawyers may wish to encourage writers to use common themes, especially increasing Legal Services budgets and opposing tort reform.

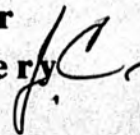
Naturally, likely defendants and their attorneys, as well as LSC opponents, may well take an opposite approach, but, frankly, they seem already so far in control that they need not bother. They are the likely winners here, and Alaska's poor, injured, and middle economic class the likely losers.

Everyone else needs to take pen or computer in hand and write, write, write your legislators and Governor. Write, right now.

Good fortune.

MEMORANDUM

Representative John Cowdery

TO: Representative Porter
FROM: Representative Cowdery 
DATE: April 1, 1997
RE: Tort Reform Article
Cc:

I thought you would be interested in the attached article from the aptly named "Alaska Bar Rag".

*

DUELING PSYCHIATRISTS TESTIFY AT TRIAL OF YOUTH WHO KILLED PARENTS

By LIZ RUSKIN

Daily News reporter

Rick Watkinson was suffering from post-traumatic stress disorder and was not able to control his actions the night he killed his father and stepmother, a psychiatrist hired by the defense testified at Watkinson's murder trial.

Overwhelmed by long-simmering emotions, the 16-year-old boy "snapped" on Nov. 30, 1995, and robotically killed Bob and Rosemary Watkinson in their Anchorage Hillside home, Dr. John Smith of Oklahoma City told the jury Wednesday.

"He would have killed anyone in that room (who stood in his way). ... I'm convinced of it," Smith said.

Watkinson, according to his own confession, had no trouble performing the tasks necessary to accomplish the killings: sneaking to the master bedroom when he thought the adults were asleep, aiming the rifle, and heading downstairs to reload after his first shots only wounded the couple.

He was able to control his movements, Smith said. "What he couldn't stop is murdering," the psychiatrist testified.

But a Fairbanks psychiatrist hired by the prosecution disagreed with Smith's diagnosis and told the jury he believes Watkinson was able to control himself.

Public defenders Wally Tetlow and Randall Patterson hope to show that their client acted "in the heat of passion" that night. If they succeed, the jury would acquit Watkinson of first-degree murder and convict him of the lesser charge of manslaughter.

Smith, who interviewed the accused for 10 hours and studied documents relating to his case, said Watkinson had been a cauldron of anger since his father divorced his mother when Watkinson was 11. Watkinson believed his father had rejected him and the rest of the family to be with the new wife, Rosemary. Watkinson resented Rosemary Watkinson, and was furious at his father, Smith said.

The family dynamics only worsened when Watkinson moved from his mother's house in Oregon to live with his father and stepmother Smith said. Watkinson told the psychiatrist of four specific incidents in which his father hit him, and said there were other times he and his father pushed and shoved each other. Those episodes served as lightning rods for the teen's fury, Smith said.

Watkinson reached the breaking point on Nov. 30, the day his father learned he'd been skipping school again and pulled him out of an ROTC drill, Smith said. Later that night, after his father and stepmother argued over how to discipline him, his father told

him he'd have to leave the house because he was ruining the marriage.

"And he began to feel like, 'These people can do anything they like to me. I can't handle it,' " Smith testified.

That night, he in essence killed his parents twice, according to the psychiatrist.

The first time, he was lying in bed and was flooded by painful memories about his father.

He got up and jotted a note, describing in six simple steps how he was going to kill his father and stepmother that night, at 1 a.m.

Immediately afterward, Smith said, the boy felt relief. The first "killing" had done the trick. He felt drained and empty.

"But then his head started filling up again," Smith said.

That's when Watkinson grabbed the rifle and went upstairs.

The defense rested its case after Smith testified. Then prosecutor Bob Collins called psychiatrist Irvin Rothrock to the stand.

To have post-traumatic stress disorder, a person must have lived through a severely stressful event, something beyond the bounds of what humans normally experience, such as a harrowing experience in war, Rothrock said. He dismissed Smith's theory that the disorder can stem from the breakup of one's parents' marriage.

"That's pretty hard to argue in a society where half the people who get married get divorced," Rothrock said.

The defendant's deeds -- writing the list, waiting until he thought his parents were asleep, reloading the gun -- show that he was not operating in a blind rage, according to Rothrock.

"These are not the actions of someone who is being driven beyond his (ability) to control himself," he said.

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4-2-97

LAWSUIT: Two years before trial begins

Continued from Page F-1

The four-page mailing appears a fair and reasonable explanation to fishermen, said Phillip Ginsberg, a Seattle attorney for defendant Peter Pan Seafoods.

Wards Cove Packing Co. attorney Bruce Falconer said he was disappointed that the Supreme Court turned down

the request to review the class certification. But he noted that the court could examine that issue in a later phase of the lawsuit.

He criticized the notice as incomplete, saying it should have told fishermen that if they lose, they may have to share the cost of defendants' attorneys' fees. He also wanted the notice to include information on counter-

claims filed by Wards Cove.

Wards Cove intends to continue fighting the case, but the class-action status may trigger some defendants to settle, he said. "Any time you have a case that is certified as a class action, that changes the playing field," Falconer said. "Simply getting a class certification could result in pressure on defendants to settle."

Fish price suit casts a wide net

6,000 permit holders get word of \$1 billion claim

By HELEN JUNG
Daily News reporter

Notices to more than 6,000 Bristol Bay salmon permit holders hit the mail Tuesday, as attorneys press forward in a \$1 billion lawsuit alleging widespread price-fixing by salmon processors.

The notices go to all who held driftnet or setnet permits for the rich Bristol Bay red salmon fishery for any season between 1989 through 1995, said Phillip Weidner, the plaintiffs' attorney.

Filed in 1995 in state Superior Court, the suit claims seafood processors and Japanese trading companies conspired to pay fishermen unfairly low prices for the salmon they caught. The 60-plus defendants, which include Alaska's largest seafood companies, deny the claims, saying that a glut of salmon on the worldwide market from fish farms and other sources has been driving down prices.

"The only realistic options left for the defendants now are to settle or to face a jury."

— Phillip Weidner,
the plaintiffs' attorney

The notices outlining the case and fishermen's options were to be sent last month. But several defendants requested that the Alaska Supreme Court re-examine the lower court's decision to expand the lawsuit from the original eight plaintiffs and designate it a class-action lawsuit. The Supreme Court denied the request Friday.

"The only realistic options left for the defendants now are to settle or to face a jury," Weidner said. At least six small processors have sought to settle the case, he said.

Fishermen are considered part of the class unless they file an official request saying they want to excuse themselves from the class by Oct. 1 and forgo potential winnings, according to the notice.

B-10 Friday, March 28, 1997

FORUM / LETTERS

Anchorage Daily News

Tort reform must be meaningful to be effective

By BRIAN PORTER

JUNEAU — This session's tort-reform bill passed the House of Representatives on March 18 by a vote of 22-12. There were more than 10 hours of floor debate and 83 submitted amendments. This bill now is in the Senate. Included are 12 sections taken verbatim from the recommendations of the Governor's Advisory Task Force on Civil Justice Reform, which was formed in the aftermath of the governor's veto of last session's tort reform bill.

Despite misinformation to the contrary, there are two areas of potential recovery that are not in any way reduced by the bill.

First and foremost, this bill does not reduce any worker's compensation benefits. In fact, it enhances an injured worker's statutory recovery. Second, the bill does not limit economic damages, which cover all quantifiable lost past and future wages, past and future medical expenses and any other actual costs or losses from injury, damages or death. This type of damage recovery is fair

COMPASS

and is required to place the injured person in the same position economically were it not for the accident.

This bill does, however, address the abuses that now occur. The mere threat of unlimited subjective damage claims, such as punitive damages and damages for "disfigurement or physical impairment," has the in terrorem (to turn around an ancient legal phrase) effect of extorting oversized settlements from partially at fault to totally innocent defendants.

The success of tort reform will be realized by the enactment of a package of reforms, such as the one in this bill. Here is some of what the bill will do:

- Put a cap on punitive damages of the greater of \$300,000 or three times compensatory damages. In extreme cases, the cap is the greater of \$600,000 or four times compensatory damages.

- Pay one-half of punitive damage recoveries to the state of Alaska.

- Put a cap on damages for noneconomic damages (pain, suffering, loss of enjoyment of life, disfigurement and physical impairment) of \$300,000, except that in aggravated cases the cap is \$500,000 per claim.

- Require that "expert witnesses" in professional malpractice cases be licensed in the same profession anywhere in the world, in order to prevent egregiously slanted testimony from "hired gun" type of expert witnesses.

- Allow a jury to know before it enters a verdict whether an injured person has realized a recovery for the same injury in another lawsuit or from another source.

- Prevent lawyers from running up exorbitant fees (\$800,000 to more than \$1 million) as "independent counsel" for injured persons with respect to claims made that are unquestionably not covered by that person's insurance policy.

First and foremost, this bill does not reduce any worker's compensation benefits. ... Second, the bill does not limit economic damages, which cover all quantifiable lost past and future wages, past and future medical expenses and any other actual costs or losses from injury, damages or death.

- Punish lawyers with fines of up to \$10,000 for filing clearly frivolous lawsuits, or for falsifying material facts in a lawsuit.

- Overrule an Alaska Supreme Court decision that undermined a voter's initiative so that a person should only be held liable for damages in direct proportion to that person's fault.

- Establish a bar from filing lawsuits by persons who are injured while committing a felonious crime or while operating a motor vehicle, aircraft or boat while under the influence of alcohol or illegal drugs.

- Overrule another Alaska Supreme Court decision by granting immunity to hospitals from liability for negligence of independent contractor emergency room physicians, provided the physicians carry at least \$500,000 of liability insurance.

- Reduce several statutes of limitations and the statute of repose to a reasonable length in order to prevent the assertion of stale or fraudulent claims that would be impossible to defend because 10 or 20 years have passed since the alleged negligent act.

- Allow future damages to

be paid to injured persons in periodic payments in order to protect injured persons from becoming wards of the state.

- Allow offers of judgment to be made by either party in order to encourage early settlement of litigation.

- Require a study and recommendations 10 months from now as to an alternative dispute resolution system, such as, for example, the mediation system that enjoys an 80 percent success rate in Seattle area federal courts.

If we want an environment that is conducive to rational economic development, the creation of jobs and a higher standard of living for all Alaskans, enactment of meaningful tort reform is paramount. Mere token reform is not enough. Every Alaskan should thoroughly understand that the stakes are high, and the battle will not be easy, but that we can prevail.

Li Rep. Brian Porter of Anchorage is the House Majority Leader.

Seek freedom for Irish woman

While His Royal Highness, Prince Philip, was wine and dined in Anchorage, back home in London British Home Secretary Michael Howard continued to refuse to allow Roisin McAleiskey out of prison on bail. Roisin, a 25-year-old Irish woman, is seven months pregnant. She is being held, without bail, in solitary confinement at Holloway prison, a maximum-security facility in London, awaiting extradition to Germany. She is the daughter of Bernadette Devlin

'Send me to Juneau'

A Daily News contest

How would you like a free trip to Juneau, to see your state government in action and campaign for an issue dear to your heart?

This is your chance. Enter the Daily News "Send me to Juneau" contest.

What the winner gets:

- Round-trip airline ticket and an allowance to cover the cost of lodging, meals and incidentals.

- Information (if needed) on whom to see and how to find your way around the capital.

- The opportunity to publish op-ed page commentary reflecting on your experiences in Juneau (provided it meets tradi-

Wasilla or anywhere in the state and spend the money that we made from the tourists. I think people should look a little deeper.

— Lynn S. Hettick
Seward

Hell-skiing foes surface too late

Since the early '70s, our family has lived and worked at Crow Creek Gold Mine in Girdwood, developing a small business and enjoying the beautiful valley and Chugach Mountains. This winter, we were thrilled to support the Chugach Powder Guides in their efforts