

CONSERVATIVE ACTION PROJECT

The Conservative Action Project, chaired by former Attorney General Edwin Meese, is designed to facilitate conservative leaders working together on behalf of common goals. Participation is extended to leaders of groups representing all major elements of the conservative movement—economic, social and national security.

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Edwin Meese, former Attorney General
Matthew D. Staver, Founder & Chairman, Liberty Counsel
Grover Norquist, President, Americans for Tax Reform
Tony Perkins, President, Family Research Council
Kenneth Blackwell, former Treasurer, State of Ohio
Duane Parde, President, National Taxpayers Union
Wendy Wright, President, Concerned Women for America
Tim Phillips, President, Americans for Prosperity
Tevi Troy, former Deputy Secretary, Department of Health & Human Services
Gary Bauer, President, American Values
Marion Edwyn Harrison, President, Free Congress Foundation
Herman Cain, President, THE New Voice, Inc.
James C. Miller III, former Reagan Budget Director
Brent Bozell, President, Media Research Center
Richard Viguerie, Chairman, ConservativeHQ.com
T. Kenneth Cribb, former Counselor to U.S. Attorney General
William Wilson, President, American for Limited Government
Alfred Regnery, Publisher, American Spectator
David McIntosh, former Member of Congress, Indiana
Jim Martin, President, 60 Plus Association
Becky Norton Dunlop, President, Council for National Policy
Tom Winter, Editor in Chief, Human Events

MEMO FOR THE MOVEMENT

RE: *Costly lawsuit abuses drive up medical expenses* and add billions of dollars to the cost of healthcare, but provide only marginal assistance to injured patients. Yet Congress refuses to address this problem or to make it part of meaningful healthcare reform. Concerned citizens need to raise the issue with Members of Congress and insist it be addressed in any health care reform legislation.

ACTION:

We urge you to contact your Congressmen and Senators and tell them that any healthcare legislation that lacks substantive lawsuit reform with respect to the medical malpractice issue is unacceptable. Any healthcare reform bill passed by Congress should explicitly address the increasingly costly lawsuit abuses that hamper our healthcare system and economy.

ISSUE IN BRIEF:

- Frivolous litigation is a large and growing contributor to healthcare costs. The Manhattan Institute estimates that the annual direct cost of such litigation is over \$30 billion per year -- a 2000% increase since 1975.¹ When the indirect costs are added, as set forth below, the total healthcare costs are estimated to exceed \$124 billion per year.² Doctors spent over \$6.3 billion to obtain malpractice liability coverage in 2002, according to the Department of Health and Human Services.³
- Flimsy litigation over pharmaceuticals and medical devices acts as a deterrent to innovation in the marketplace, lengthens the time that it takes to get new drugs and devices approved, and adversely affect research and investment decisions on the part of manufacturers.⁴
- “Defensive medicine,” the practice of ordering unnecessary procedures and referrals in order to limit a doctor’s exposure to future litigation, costs consumers several times the cost of direct litigation. The Pacific Research Institute estimates the cost at over \$200 billion per year.⁵ The Massachusetts Medical Society found that 5 out of 6 doctors admitted they order tests, procedures and referrals, amounting to about 25% of their total charges, solely as protection from lawsuits.⁶ The American Academy of Orthopedic Surgeons estimates that the average American family pays an additional \$1,700 to \$2,000 per year simply to cover the costs of defensive medicine.⁷
- Medical malpractice litigation is inefficient, and poorly compensates victims who often wait years for litigation to conclude, and then collect about 40 cents on the dollar for their injury – the rest going to trial lawyers and administrative expenses.⁸ And because the system is so inefficient, most injured parties never collect; those who do are often not those who are actually injured, but those who have somehow caught the attention of a plaintiff’s lawyer. Class action cases brought against drug and device manufacturers return even less, often mere pennies on the dollar, the balance going to the trial lawyers.
- Congress refuses to address the system because of huge campaign contributions from trial lawyers. In the 2010 election cycle, trial lawyers have already given \$19,396,155 to Democrats alone. Of the money that lawyers give to campaigns, 82% goes to Democratic candidates. Senate Majority Leader Harry Reid has received more than any other politician – \$977,947.⁹ In 2008, Candidate Obama received \$43 million from the trial bar.¹⁰

¹ <http://www.manhattan-institute.org/html/miarticle.htm?id=5178>

² <http://www.aaos.org/news/aaosnow/nov08/managing7.asp>

³ <http://aspe.hhs.gov/daltcp/reports/litrefm.htm>

⁴ <http://www.triallawyersinc.com/healthcare/hc01.html#notes>

⁵ http://www.americanthinker.com/2009/08/how_to_bend_the_curve_down_in.html

⁶ <http://advance.uconn.edu/2009/090223/09022302.htm>

⁷ <http://www.aaos.org/news/aaosnow/nov08/managing7.asp>

⁸ <http://www.modernmedicine.com/modernmedicine/article/articleDetail.jsp?id=108942>

⁹ <http://www.opensecrets.org/industries/recips.php?cycle=2010&ind=K01>

¹⁰ <http://www.opensecrets.org/industries/recips.php?ind=K01&cycle=2008&recipdetail=A&mem=Y&sortorder=U>

- Medical malpractice reform has been shown to have real benefits for consumers. The American Tort Reform Association reports that in states where tort caps have been enacted, rural areas are more likely to have OB-GYNs and surgical specialists.¹¹
- No healthcare reform legislation can be seriously considered unless it includes provisions to limit the direct and indirect costs of lawsuit abuse. Without meaningful reform, the costs of healthcare cannot be contained or controlled. Unfortunately Congress refuses to address the issue because of the vast sums of campaign money donated from trial lawyers.

FOR ADDITIONAL INFORMATION ON THE NEED FOR TORT REFORM PLEASE VISIT THESE WEBSITES:

[American Academy of Orthopedic Surgeons](#)

<http://www.manhattan-institute.org/html/clp.htm>

<http://aspe.hhs.gov/daltcp/reports/litrefm.htm>

<http://www.triallawyersinc.com/healthcare/hc01.html#notes>

<http://commongood.org/healthcare-reading-cgpubs-factsheets-14.html>

<http://www.medicalprogresstoday.com/spotlight/spotlight.php>

<http://www.modernmedicine.com/modernmedicine/article/articleDetail.jsp?id=108942>

[Philip K. Howard](#)

[Charles Krauthammer on the need to abolish the medical malpractice system](#)

[Bob Beckel on the need to cap malpractice awards](#)

[Governor Rick Perry on how malpractice litigation reform has helped the Texas economy](#)

[John Mackey, Whole Foods CEO in Wall Street Journal Op-ed On the Need for Tort Reform](#)

[American Tort Reform Association](#)

(All organizations listed are for identification purposes only)

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¹¹ http://www.atra.org/wrap/files.cgi/7964_howworks.html