

Reality Check With Proposed Law Suit Reform

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It is a rainy Saturday and your golf game is canceled. So you take the wife and kids shopping. While entering the store, you slip and violently fall, the store manager rushes to place carpet at the entrance way. The manager files an accident report and you are on your way to the hospital for x-rays which reveal a concussion, broken leg and a shattered shoulder.

You contact the insurance adjuster representing the store owner. She informs you to submit the medical bills to them. After you inquire about lost wages and pain and suffering, she chuckles and says "we are paying your medical bills, aren't we?"

What is all of this nonsense about capping punitive damages in civil litigation? "Personal

injury lawyers are making too much money ...lawsuits are putting companies out of business". Before we start lawyer bashing, let's take a closer look.

Negligence is defined as conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm. Property owners have a duty to maintain their premises in a reasonably safe condition. In our example above, it was foreseeable that rain would create a wet, slick and dangerous situation for invitees. The property owner had a duty to place carpet or similar material on the floor by the entrance and even perhaps place a sign that says "caution: wet floor". Without properly maintaining the floor, it was foreseeable that our friend above would sustain serious personal injuries.

To limit recovery to an individual who was injured is outrageous! First of all, it is the insurance companies who desire recovery limits and they have made no representation that insurance premiums would decline should limits be implemented. Secondly, if all insurance companies would negotiate in good-faith and

amicably resolve victims claims, then lawsuits would not be filed in the first place. Furthermore, Florida follows a "comparative negligence" theory. Under this doctrine, negligence attributable to the person for whose injury the recovery is sought.

Understand that victims and victims attorneys exhaust all remedies prior to filing a lawsuit, such as mediation and negotiation. If a lawsuit has no merit, then the defense attorney has every right to file a Motion to Dismiss.

Furthermore, a corporation who manufactures a defective product must be held responsible for diminishing the quality of life for a victim injured by the defective product. And capping punitive damages may eliminate the desire for corporations to conduct extensive research on the safety of a product because a lawsuit may now ultimately be less expensive to the corporation than the cost in ensuring that the product is free from defects.

Let's remember that it is the jury that determines monetary awards...and the jury is compromised of citizens such as yourself.