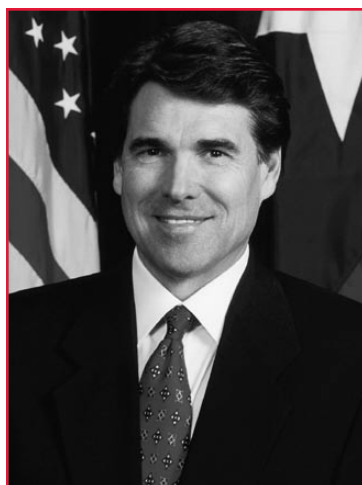




BULLETIN

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THE DOC'S BACK IN TEXAS

By Governor
RICK PERRY

Just four short years ago, pregnant women in Texas often had to travel outside their county, and sometimes their region, for obstetric care. Parents had difficulty locating pediatric specialists to care for their ill children, and trauma specialists – the doctors urgently needed when Texans are seriously injured in accidents – were rare. In short, access to quality health care in Texas was on life support.

However, the seeds that Texas voters sowed in 2003 are beginning to bear fruit, and our health care system in Texas is showing signs of renewed vigor.

The lawsuit reforms that voters approved in a constitutional amendment in September 2003 brought back balance to our legal system, and brought back the doctors to Texas. Responding to legislation passed by lawmakers in the Spring of 2003, Texans acted to end the frivolous lawsuits that plagued doctors, driving them away from our hospitals and clinics. Four years and one constitutional amendment later, doctors are flooding back into Texas and access to quality medical care is increasing all across our state.

Prior to 2003, access to quality health care was in critical condition in Texas. Many parts of the state, South Texas in particular, were feeling the pain of a broken medical malpractice legal system. Doctors were even taunted with a billboard outside a Corpus Christi hospital, urging patients to come to a local law firm to file medical malpractice lawsuits. Medical malpractice insurance costs and even the lack of available malpractice coverage sent doctors running and, too often, closing their doors for good. More frightening was that many Texas counties were without a pediatrician and obstetrician. In fact, two-thirds of Texas' 254 counties had no ob-gyn.

But with their September 2003 vote, Texans

changed our health care system, and access to quality care began to improve.

In 2002, Dr. Javier Cardenas, an obstetrician practicing near Dallas, hoped to relocate to his hometown of McAllen in Hidalgo County, then one of the nation's leading dockets for malpractice suits. It wasn't until legal reforms were put in place that Dr. Cardenas was able to move his practice to McAllen.

"The passage of Proposition 15 made the thought of coming back a reality," he says.

In Southeast Texas, the story is similar. Dr. Keith Hill recently set-up his practice as an orthopedic surgeon specializing in foot and ankle surgery in Beaumont. According to Dr. Hill, he would not have chosen Texas over other states if the liability climate had not changed.

Texas hospitals in crisis areas of the state are also reaping the benefits of voter approval of lawsuit reforms. They report that recruitment of physicians is easier. For example, Driscoll Children's Hospital in Corpus Christi has more than a dozen new pediatric specialists. Hospitals from Beaumont, to the Rio Grande Valley and the Metroplex report better success in recruiting physicians.

Even The New York Times has taken note of the progress here, recently reporting that more than 10,878 doctors have begun practice in Texas since 2003, and the medical board's office is flooded with even more applications. Texas has gained 186 obstetricians, 156 orthopedic surgeons and 26 neurosurgeons.

Thanks to Texas voters and grassroots groups, like Citizen's Against Lawsuit Abuse, Texans now have better access to doctors. Health care in our state is as healthy as it has been in long time. Texas is a national success story, showing the rest of the country the benefits of medical malpractice lawsuit reform.

EVERYTHING'S BIGGER IN TEXAS:

Judicial Hellholes Breeding Grounds for Greed

Texas is known for its ten-gallon hats, wide open spaces and ardent football fans. This is a state of enormous economic opportunity that attracts wannabe Texans the world over. Unfortunately, some parts of Texas also attract less than savory "tourists" – opportunistic personal injury lawyers – who flock to areas of the state known as judicial hellholes to bank on biased courtrooms and pad their pockets with Texas-sized verdicts.

For the sixth year running, the Rio Grande Valley and Texas Gulf Coast were dubbed judicial hellholes in the annual Judicial Hellhole report released by the American Tort Reform Association (ATRA). Also known for their rich culture and beachfront properties, the Valley and the Coast persist as destinations for what's been described as "litigation tourism."

Courts in these regions of the state are notorious for favoring personal injury lawyers and are perceived by the trial bar as ideal legal venues. As a result, according to the *Judicial Hellholes 2007* report, "plaintiffs' attorneys become the 'travel agents' for the 'litigation tourist' industry, filing claims in jurisdictions with little or no connection to their clients' claims."

It's no wonder enterprising personal injury lawyers would flock to judicial hellholes

where judges systematically apply laws and court procedures in favor of plaintiffs and against defendants in civil lawsuits. In fact, the Rio Grande Valley and the Texas Gulf Coast are known collectively "as one of the toughest jurisdictions for corporate defendants in the country," according to published reports. In an attempt to end Cameron County's long reign as a judicial hellhole, the local newspaper in the Rio Grande Valley published its plea to newly elected judges, lamenting that the county is a "place where judges...give preferential treatment to tort cases in general or to cases filed by attorneys who are personal or political friends."

In Starr County a district judge single-handedly stifled a defendant's request for a new trial – even after all parties discovered that a juror in the first

trial actually knew the plaintiff, had accepted interest-free loans from her and had contacted her several times after receiving his jury summons. The case was filed by a widow who blamed her husband's fatal heart attack on the fact that he'd taken Vioxx for no more than 17 days. The case fetched a \$32 million verdict despite the fact the husband had a 28-year history of heart disease, had undergone quadruple bypass surgery, smoked and had high blood pressure long before taking Vioxx. Instead of ruling on the defendant's request for a new trial with a fair jury, the judge sat on the request, allowing the 75-day time limit for a new trial to expire. So much for blind justice.

Personal injury lawyers boast about their successes in these "magic jurisdictions." According to one prolific personal injury lawyer's description of Starr County, Texas, "That venue probably adds about 75% to the value of the case."

The threat to civil justice reforms in Texas doesn't stop in the courthouses of judicial hellholes. A statewide movement to rollback progress is afoot in Texas and beyond. Through the courts, in the Texas Legislature and in the halls of Congress, innovative, aggressive trial lawyers – and their army of lobbyists – are searching for and finding new ways to sue and, in many ways, playing the litigation lottery to their own financial benefit. The public must declare zero tolerance on lawsuit abuse and hold our officials accountable. Judges should be applying the law fairly and consistently in all cases and lawyers found abusing the system should be penalized.

When our communities become breeding grounds for greed, we all pay the price. It may be true that everything is bigger in Texas, but that shouldn't include the judicial jackpots so feverishly pursued by personal injury lawyers. Greed-fueled notoriety has no place in the proud landscape of the Lone Star State.

WATCHDOG APPLAUDS

TRANSPARENCY CODE FOR STATE AGS

Citizens Against Lawsuit Abuse (CALA) groups in Texas recently applauded a proposed Transparency Code issued by the American Tort Reform Association to enhance public disclosure of contractual arrangements between state attorneys general and private contingency fee lawyers.

"It is sometimes necessary for attorneys general to hire outside contingency fee lawyers to work on behalf of the state," said Kirsten Voinis, spokesperson for CALA of Central Texas. "Yet, without absolute public disclosure, the potential for abuse is far too great – Texas can attest to that."

The ATRA Transparency Code calls for disclosure of contracts, oversight in the contracting process, detailed reporting of work performed, and accountability in how large settlements awarded to the state are handled.

"The bottom line is private contingency fee lawyers working for the states are working at taxpayer expense," said Bill Summers, president of the Rio Grande Valley CALA based in Weslaco. "And that means taxpayers have the right to know the extent

of the relationship between the attorneys general and the outside lawyers they hire."

Diane Davis, executive director of East Texans Against Lawsuit Abuse, noted the potential conflicts that can arise when AGs award lucrative contracts to their political supporters without competitive bidding and with little or no oversight from the public or state legislatures.

"Without proper oversight, too many gray areas exist that could leave taxpayers in the dark about an attorney general's dealings with private lawyers," Davis said. "That is exactly what happened in Texas with former Attorney General Dan Morales."

"Texas illustrated the potential for abuse and then led by example in passing new laws to keep the problem from happening again," added Chip Hough, Chairman of Bay Area Citizens Against Lawsuit Abuse in Corpus Christi. "Our experience here in Texas, and our constructive response to it, can be a lesson for AGs in other states."

Starting in February 1998, Citizens Against Lawsuit Abuse (CALA) groups in Texas began to question the legal fees and expenses of outside lawyers hired by then-Attorney General Morales to handle Texas' lawsuit against tobacco companies.

The lawyers pocketed \$3.3 billion in fees, plus \$40 million in "miscellaneous out-of-pocket expenses"; the expenses were never fully documented. The CALAs also were the first public interest organizations to criticize Morales' contract with his friend, lawyer Marc Murr, who was also hired by Morales for the tobacco case. Morales later served prison time for falsifying documents in the case in an attempt to give Murr hefty fees from the tobacco settlement.

With CALA support, Texas lawmakers ultimately passed laws limiting how much any outside lawyer may be paid by the state and requiring they keep records of time worked and expenses incurred.

"Without oversight and strict rules, too many gray areas exist that could leave taxpayers in the dark about an attorney general's dealings with private lawyers."



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- GOVERNOR RICK PERRY



For more information about Citizens Against Lawsuit Abuse groups in your area, contact:

- Bay Area CALA at (361) 883-1865 or visit www.bacala.net
- CALA of Central Texas at (512) 481-1000 or visit www.calactx.com
- East Texans Against Lawsuit Abuse (ETALA) at (800) 44ETALA or (903) 234-8300
- Houston CALA at (713) 267-2302 or visit www.calahouston.org
- Rio Grande Valley CALA at (956) 968-3141 or visit www.citizensagainstsuitabuse.com
- or visit us at: <http://www.tala.com>