



Feature

Tort Reform: Does it Affect Legal Staff?

By Ursula Furi-Perry

Proponents say it will help curb frivolous lawsuits and reduce costs in several industries, including health care. Opponents argue it's an invention of the big insurance companies, which takes away Americans' fundamental rights. In fact, some opponents, including the American Trial Lawyers' Association, refuse to call the proposed legislation "reform" at all.



Tort reform encompasses efforts to limit liability of defendants in certain types of cases, such as medical malpractice and personal injury litigation. With at least four bills introduced in Congress and several measures by state legislatures, tort reform has been thrust into the legal community's spotlight. Some bills

attempt to cap non-economic damages, like those for pain and suffering and loss of enjoyment, while others hope to reform class-action suits. As some attorneys worry about its effect on their practice, while others stand behind the proposed legislation, it's important to ask one question: in what ways, if any, will tort reform affect non-attorney legal staff?

"The fact of the matter is caps on damages make it harder for individuals who are injured to get into the courthouse," believes Carlton Carl, spokesperson for the American Trial Lawyers' Association. "[This makes it] more difficult for attorneys to take cases of people who may not have any or significant economic losses and whose only real claims are non-economic losses." As attorneys lose out, so might those working under the attorneys' supervision. "If it's not practical for attorneys to take cases, it impacts everyone who works at a law firm," Carl said.

Paralegal Diana Orozco got involved first-hand in tort reform legislation, accompanying her boss, then president of the Connecticut Trial Lawyers' Association. "I was able to work with him in coordinating severely injured plaintiffs and having them go to Congress and speak," said Orozco, who's a member of the American Trial Lawyers' Association's Paralegal Task Force. "I helped in organizing by helping clients get

involved." Orozco agrees that tort limitations may affect legal staff. In fact, she jokes about thinking she'd have to sell flowers on street corners if enough legislation was passed. "It has the potential to decrease the legal workforce," believes Orozco. "If awards are governed and will be limited, we're the ones who'll catch the brunt of it." Orozco says the potential for decreased or capped damages has made her work more difficult for clients. "It's hard when somebody tries to put a figure on pain and suffering, because it's all so subjective," said Orozco. "It's made me more aware of the extent and ramifications of injuries. We deal with volume and see these injuries on legal papers, so [it's easy to] disassociate, but not once you see the full effect."

Opponents also point out that plaintiffs' firms and their employees are not the only ones at risk. "If plaintiffs' firms are not able to bring cases, then defendants' firms won't be able to defend cases," said Carl. While medical malpractice and personal injury are the areas most likely to be affected, opponents of tort reform warn against thinking that firms in other areas of the law will get off scot-free. "Anyone at any firm who thinks 'we don't do that' is being very short-sighted," Carl stated. Yet there are those in the legal community who don't believe that non-attorney legal staff will be affected at all by the proposed measures. A call to the American Tort Reform Association generated little interest in this story, and a personal poll of legal staff (albeit small and informal) revealed few insecurities.

Whether and how non-attorney legal staff will be affected by the proposed legislation isn't completely clear yet, and even legal professionals are torn about its effects on the legal community. But one thing is for certain: regardless of personal



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opinion on the topic, it's essential for legal professionals to be informed about tort reform and its legislation. "It's important

for everyone, including non-attorney legal professionals, to realize what is being proposed in these changes," said Carl.

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