

## **Revising ‘Bad Faith’ Law Would Protect Only Insurers**

Two companies insuring West Virginia doctors are focusing on restricting “bad-faith” claims.

A doctor, lawyer or engineer purchases malpractice insurance so that if he or someone under his supervision makes a mistake that causes injury, his home or practice will not be at risk by a potential claim.

“Bad faith” law is the incentive for an insurance company to do the right thing. If an insurer fails to pay the claims without good reason, or litigates a claim it knows it should settle, it may cost the insurer more than the original claim.

Take this away or restrict it and the insured relies solely on the company’s good faith. This is an attempt to change the law not to prevent “frivolous” claims, but to avoid paying the most serious obligations.

The proposal to create a doctor’s mutual insurance fund from tobacco litigation proceeds will create another insurance choice.

No one can argue in favor of “frivolous lawsuits.” However, all of us need to be protected from the dictates of one or two insurance companies. They can place our doctors in crisis again at any time.

Indeed, the current “wish list” is nothing new and will continue to expand. Insurance is serving its purpose only when it compensates valid claims and protects the insured. In fact, without incentives to fulfill obligations, it isn’t insurance at all.

Our legislators should protect all West Virginians, and not merely a few out-of-state insurance interests.

**William K. Schwartz**  
**Charleston**

## **Tort-Reform Agenda Would Hurt Victims**

Editor:

Sherman Joyce recently criticized the West Virginia legal system in the Gazette. He is president of the American Tort Reform Association, based in Washington, D.C. Its membership includes Nationwide Insurance, New York Life Insurance, and State Farm. ATRA works nationally to limit compensation for the most seriously injured and liability for willful misconduct.

Joyce alleges West Virginia sidesteps due process in asbestos litigation and deprives the sick of “needed court awards.” He ignores the unsuccessful appeals to the United States Supreme Court and the requirement that each claimant prove injury, whether it is for scarred lungs or cancer. In fact, cancer cases receive priority.

Workers were exposed to poisonous dust without warnings for decades. ATRA wants to place arbitrary limits on pain and suffering in the most serious cases, and to limit the liability of companies who endangered these workers, placing profits over safety. It is ironic they now show concern for “needed court awards” for victims. ATRA’s agenda would shift the cost of these illnesses to others, including taxpayers and, worst of all, the victims and their families.

**William K. Schwartz**  
**Charleston**