

Joint and Several Liability Guards Victims

Some “reformers” want to eliminate the rule of joint and several liability in West Virginia.

The cornerstone of our civil law is full compensation to the injured party.

If three companies create defective products that all contribute to an injury or death, our rule permits the injured party to seek a full recovery from all or any one of the wrongdoers.

Our law recognizes that what may be equitable between the wrongdoers is an issue totally divorced from what is fair to the injured party.

So, if all three caused me to incur medical bills and lose wages of \$100,000, I can collect from one or all. The three can argue among themselves who should pay more and they can pursue this in court.

The real concern among “reformers” is that two of the three companies may file for bankruptcy protection, leaving the third holding the bag.

“Reformers” want to leave others holding the bag. They want social agencies, charities, the taxpayer, and worst of all, the victim and their families holding the bag.

This turns justice on its head. One who causes injury or death because of negligence or willful conduct runs the risk of being handed the bill.

He also runs the risk of his fellow wrongdoers skipping out on the bill.

The victim and society should not run that risk.

William K. Schwartz
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Legislature Needs to Consider the Severely Injured

Insurance agent Jerry Nelson and I disagree.

The joint and several liability rule protects victims.

Families in West Virginia have lost fathers because they worked around toxic dust created by the defective products of many corporations.

Several of these companies have obtained bankruptcy protection. These victims can recover substantial medical bills and lost wages from the remaining companies, if they can prove that the products caused the injury or death.

They could be financially devastated in many cases by elimination of this rule.

Our system requires an injured party to prove that another was negligent and that this caused the injury. If the conduct is too remote or minimal it is not a cause under our law and there is no liability.

Several young drivers may be racing each other and lose control causing severe injury, but only one has insurance that will fully compensate the victim.

A lawyer representing the victim will usually make a demand within the limits of that policy. The insurer would then be responsible for a judgement above the policy limits, if it fails to settle without good reason.

However, a judgement will be reduced by other settlements.

Nelson contends this system scares away business, but insurance giants like AIG solicit customers and obviously think they can make a profit in West Virginia. Unfortunately, we are all at risk from a negligent driver or defective products.

I hope our Legislature considers the severely injured and not simply the profits of the insurance industry.

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