For decades, the Texas civil justice system has been systematically undermined by a handful of plaintiffs’ attorneys who exploit the legal system for personal gain. Consumers suffer, as does the very notion of justice.

Let us be clear, we do not pretend that every plaintiff’s attorney and every personal injury lawsuit is bad. There are circumstances in which a lawsuit is necessary to resolve an otherwise irreconcilable problem. Our justice system depends on having competent, ethical lawyers who represent parties on all sides of a legitimate dispute.

The damage to our legal system comes from a small—but extraordinarily potent—part of the plaintiffs’ bar, namely trial lawyers so enamored of winning at any cost that they file nuisance suits, illegally solicit clients, game the system, and generally ignore the historic mandate that lawyers are officers of the court.

After more than a year of research, Texans for Lawsuit Reform has formalized its agenda for the 2003 session of the Texas Legislature. "This
In keeping with the organization’s bipartisan purpose, Texans For Lawsuit Reform had a significant presence at both political parties’ state conventions. Since its formation in 1994, TLR has attended every state convention of both the Democratic and Republican Parties.

The 2002 Republican convention was held in Dallas on June 6-8, while Texas Democrats gathered in El Paso on June 13-15. TLR PAC Director Matt Welch manned the exhibit booth at both conventions, and he noted the enthusiasm for TLR’s reform efforts. “Without a doubt, there are many grassroots activists in both parties who are energized about meaningful tort reform,” says Welch. “I’m encouraged by the level of support from the convention delegates.”

The political conventions served as a great opportunity to inform key opinion leaders about TLR’s bipartisan agenda for the upcoming session of the Texas Legislature. Welch estimates that a record number of convention delegates, guests and dignitaries stopped by the TLR booth to pick up information. “It is no secret that there are still significant abuses in our legal system,” Welch says. “Educating grassroots activists in both parties about specific proposals to cure or mitigate those abuses will significantly help our legislative efforts in the next session.”
The Texans for Lawsuit Reform Political Action Committee, the political arm of TLR, has formally endorsed the candidacy of Justice Mike Schneider for the Texas Supreme Court. "Given the critical importance of the Supreme Court to a fair, sensible and balanced civil justice system, every TLR supporter is urged to vote in the November elections," says Matt Welch, TLR PAC Director.

The conservative philosophical makeup of the Texas Supreme Court could change as five of the nine positions are up for election in November. "Election night could dramatically alter critical court decisions that will affect the everyday lives of Texans for generations to come," says Mike Schneider, Chief Justice of the First Court of Appeals and candidate for Texas Supreme Court, Place 1. "We must have judges with a known track record and with the right experience, knowledge, character, and temperament."

Mike Schneider has served as Chief Justice of one of Texas’ most respected and productive Courts of Appeal for the past six years. Prior to being appointed to the First Court of Appeals by Gov. George W. Bush, Justice Schneider was elected District Judge in Harris County in 1990 and served five years.

Justice Schneider’s conservative values and mature leadership are evidenced in the hundreds of well-reasoned opinions that he has written over the years. His judicial excellence has been recognized by two Texas Governors and in top rankings in the Houston and Texas bar polls. In the 2002 Judicial Poll conducted by the State Bar of Texas, Justice Schneider decisively outranked his opponent. He was named "Trial Judge of the Year" for 1995 and "Appellate Judge of the Year" for 2000 by the Texas Association of Civil Trial and Appellate Specialists.

"Mike Schneider is known for his fair and balanced approach to the rule of law," states United States Senator Kay Bailey Hutchison. "Mike’s commitment to public service and his years of experience as an appellate judge have given him what it takes to be an outstanding jurist," says Hutchison.

Justice Schneider’s unique background is perhaps the most diverse of any sitting judge in Texas. He’s a former high school teacher, a veteran prosecutor and consumer fraud chief for the Harris County District Attorney's
Because the rules too often encourage time-consuming, expensive litigation rather than promoting the resolution of disputes in the least expensive manner possible, Texas courts are stretched beyond capacity with unnecessary lawsuits.

The Texas civil justice system is currently burdened with too many lawsuits. All too often, the rules encourage time-consuming, expensive litigation rather than promoting the resolution of disputes in the least expensive manner possible.

Many lawsuits involve lengthy discovery and pretrial maneuvering because one or both parties have failed to realistically evaluate the case and pursue settlement. Parties often use the expensive and time-consuming nature of the legal system as leverage.

In some circumstances, one party intentionally delays resolution in an effort to exhaust the other party’s resources and hence its ability to see the lawsuit to conclusion. The civil justice system should provide appropriate incentives to litigants to avoid unnecessary expense and to shorten the time that cases stay in the system.

The Fair Settlement Act that TLR proposes creates an incentive for parties to settle lawsuits early. This bill allows defendants who make reasonable settlement offers to recover attorneys’ fees and other litigation costs if the plaintiff rejects the offer, then receives less on award. Defendants will have an incentive to make earlier, better settlement offers and will encourage plaintiffs to seriously and realistically evaluate their lawsuit before rejecting an offer. TLR believes that everyone benefits when parties are encouraged to settle their disputes fairly and early.

TLR’s proposal would lower the costs to the parties and the civil justice system, reduce the court backlogs, and place less of a burden on the average citizens who are continually asked to serve on civil juries.
Under current Texas law, juries are prohibited from assigning fault to a party who cannot be feasibly joined in the lawsuit. Examples of parties who cannot be joined include a plaintiff’s employer who carries workers’ compensation insurance, a debtor in bankruptcy, an unknown or fugitive criminal, and a person over whom the court does not have jurisdiction.

As a result, juries must assign all of the responsibility for the acts of these parties to the named defendants, who may only have been partly or even marginally responsible. This means that certain defendants bear more responsibility for a plaintiff’s damages than is fair— they shoulder the burden not only for their own portion of the fault, but also that of the responsible party that could not technically be joined in the lawsuit.

Even though jurors hear evidence that absent parties are partially (or even wholly) at fault, jurors now can’t include these parties when apportioning fault. Often, this confuses jurors and makes them doubt whether the system is designed to reach a just verdict based on the evidence.

TLR is proposing a Fair Share Act that would allow juries to consider every party who may have contributed to a plaintiff’s injuries, even parties that could not be technically joined in the current litigation. The proposed bill would amend Chapter 33A of the Civil Practice and Remedies Code to allow a defendant to file a notice with the court designating responsible third parties who cannot be joined in the current action.

If the court determines that the designation as a responsible party is proper, then the jury is instructed that it can include the third parties in its allocation of liability, thereby allowing jurors to fairly apportion fault based on all of the evidence presented.
ambitious agenda is designed to make Texas into the most fair, reasoned, and balanced civil justice system in America,” says Richard Trabulsi, Jr., TLR’s Chairman of Legislative Affairs. “Given the powerful influence of the plaintiffs’ lawyers and their lobbyists, passage of this agenda will require the active participation of every single TLR supporter,” observes Dick Weekley, President of TLR.

Now is the time to finish the job with a large-scale legislative effort that returns the Texas courts to their original purposes, such as providing a fair and impartial venue for resolving disputes, insuring that injured parties are fairly compensated by the actual wrongdoers, and absolving defendants who are innocent of any negligence or malfeasance. Curing the problems in the current system will take a significant package of legislative reforms.

In 2003, Texans for Lawsuit Reform intends to support the following areas of legislation:

• **Fair Settlement Act**: TLR endorses legislation that promotes the prompt resolution of disputes in the least expensive manner possible. In specific, we propose a Fair Settlement Act that creates strong incentives for parties to make and accept reasonable settlement offers.

• **Medical Malpractice Reform**: Excessive awards and litigation costs threaten the availability of quality health care in Texas. Fairness and balance must be brought to malpractice litigation while continuing to protect injured parties. TLR expects Gov. Perry, the Texas Medical Association and other groups involved in delivering quality medical care to Texans, to submit legislation that TLR can support as consistent with our goals regarding tort reform.

• **Legal Ethics Reform**: As officers of the court, Texas lawyers are expected to behave according to the highest ethical standards. TLR believes that the process that holds lawyers to these standards must be improved and that the disciplinary process should be more open and meaningful.

• **Class Action Lawsuit Reform**: TLR will introduce a bill authorizing the Texas Supreme Court to review class certifications as a mechanism to rein in the gaming of the Texas legal system. Immediate appeals of class certifications will enable the Court to establish clear guidelines for the lower
TLR is actively working for statutory changes to close a loophole that has allowed some trial judges to bypass laws designed to stop venue shopping in Texas.

Office, an international lawyer, a highly respected litigator, and a suburban municipal court judge. He frequently teaches Continuing Legal Education courses for attorneys and volunteers for groups like Habitat for Humanity and American Inns of Court.

ELECTING MIKE SCHNEIDER TO THE TEXAS SUPREME COURT is critical to ensuring the fair and balanced nature of our state’s highest court.

TLR PAC has also endorsed these outstanding jurists who are candidates for the Texas Supreme Court this fall: Chief Justice Tom Phillips, Associate Justice Wallace Jefferson, Judge Dale Wainwright, and Court of Appeals Justice Margaret Mirabal.

This article is a political advertisement paid for by Texans for Lawsuit Reform PAC, 1110 North Post Oak Road, Suite 315, Houston, Texas 77055.
TLR NEEDS YOUR REAL STORIES TO ILLUSTRATE LAWSUIT ABUSES TO THE 2003 TEXAS LEGISLATURE

Have you had trouble finding a physician because they’ve moved out of your town?

Have you spent time and money defending a lawsuit that had no merit?

Did a plaintiff reject a reasonable offer of settlement hoping for a jackpot?

Do you feel you were treated unfairly because of the judge’s relationship to the opposing lawyer?

Have you been the victim of an unethical lawyer?

Do you have firsthand experience with an unfair class action lawsuit or settlement?

The next session of the Texas Legislature will undoubtedly feature hearings on lawsuit abuses and on specific bills addressing these issues. The need for real reform is never as clear as when real people tell real stories.

Please let us know about your own experiences related to lawsuits.

Tell us your story and help us fix the problems that plague Texas consumers and the Texas economy. TLR’s legal experts will comb through the details and find the examples that make the best case for comprehensive reform of our civil justice system.

Drop us a note either by e-mail (tlr@tortreform.com) or by mail to: TLR Lawsuit Abuse Examples,* 1110 North Post Oak Road, Suite 315, Houston, Texas, 77055. Please be sure to include your contact information. ☎