

# '04 tort reform fell short

By Steve Hantler

A hundred years ago, Oklahoma was the place to go "to strike it rich." Today, the ones striking it rich are more often trial lawyers in Oklahoma courtrooms instead of fortune-seekers in oil fields.

Even though the Legislature passed a version of tort reform in 2004, it was only a baby step toward real transformation of the system. Opponents of true legal reform are fighting desperately to maintain jackpot justice in Oklahoma, and special interest groups succeeded in substantially watering down the bill that ultimately passed.

Consequently, the legislation will do little to rein in frivolous lawsuits against companies that conduct business in Oklahoma and employ its residents.

Consider the recent settlement in a class-action lawsuit against Houston-based Jiffy Lube that found its way to an Oklahoma court because of the state's growing reputation for outlandish jury awards. Seven million Jiffy Lube customers will each get a coupon good for \$5 off on an oil change, while a handful of plaintiffs' lawyers will collect \$2.75 million in fees.

In December, the American Tort Reform Association rendered its verdict on how far Oklahoma still needs to go by giving the state a dishonorable mention as a "judicial hellhole." Plaintiffs' lawyers like to call them "magic jurisdictions" because they know they can pull huge payouts from the hat.

Judicial hellholes are magnets for lawsuits from other areas of the country. In 2003, Oklahoma state Sen. Stratton Taylor caused an uproar when he invited his trial lawyer colleagues who were unhappy with tort reform in Texas to herd their clients on up to Oklahoma.

For these litigation tourists, Oklahoma looks increasingly attractive because of the steps nearby states are taking to balance the legal landscape. In Texas, Gov. Rick Perry signed a comprehensive lawsuit reform package in 2003, and the state's voters went on to approve the measures as a constitutional amendment.

Even Mississippi, once regarded as the "law-



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suit capital of the world" because it drew plaintiffs from all over the country, is on its way to balancing the litigation climate.

The Oklahoma State Chamber has shown that tort reform is an important economic development issue. States with civil justice systems perceived as fair and balanced experience more rapid economic growth than nearby states whose systems are regarded as unfair to defendants.

It's not hard to understand why this is so. Businesses stuck with the liability costs of a biased system end up passing those costs on to consumers as higher prices, to their workers in terms of lower wages and to their shareholders as reduced profits. My company, DaimlerChrysler, has taken two class actions to trial and won both of them, which is not just good news for the company but for car buyers who won't have those costs passed onto them.

Oklahoma needs to face the problem head-on or

risk sliding further into non-competitiveness with surrounding states. Reform won't be easy. Trial Lawyers Inc., as the Manhattan Institute calls the trial bar, is well financed, organized and powerful.

Gov. Brad Henry has indicated he supports and will sign legislation that further reforms Oklahoma's litigation system, but he also needs to be out front, using his office as a bully pulpit to highlight the economic importance of this issue.

The drive to revamp Oklahoma's legal system also needs a strong commitment from the business community, medical groups and other supporters of tort reform. Perhaps the biggest obstacle to reform is the mistaken belief that there's no solution to an out-of-control legal system.

If supporters sit on the sidelines, it deprives the reform movement of the funds and energy needed to succeed. Restoring an even-handed balance to Oklahoma's legal system is an achievable goal. The proof is nearby, in Texas, and also in Mississippi.

Hantler is assistant general counsel at DaimlerChrysler. He addressed the need for tort reform nationwide in a recent speech to The State Chamber.