

MANAGER'S JOURNAL / By Steven B. Handler

## States Compete to Clear the Tort Bar

IT IS GOOD NEWS that elected officials in some states are recognizing that legal reform is closely linked to their states' competitive positioning in the 21st century economy. A fair and predictable civil-litigation system produces the benefit of economic investment by business. Likewise, state tort laws that provide perverse incentives for the trial bar to file frivolous and unwarranted lawsuits and to seek unwarranted damages motivate companies to move jobs elsewhere.

This is the time for corporate CEOs and site-selection executives to be explicit with state government officials that their decisions for locating future business operations now take into account whether the state has a fair and predictable civil-justice system. The more frequently state officials hear this message directly from companies assessing alternative locations, the more motivated these officials will be to promote legal reform.

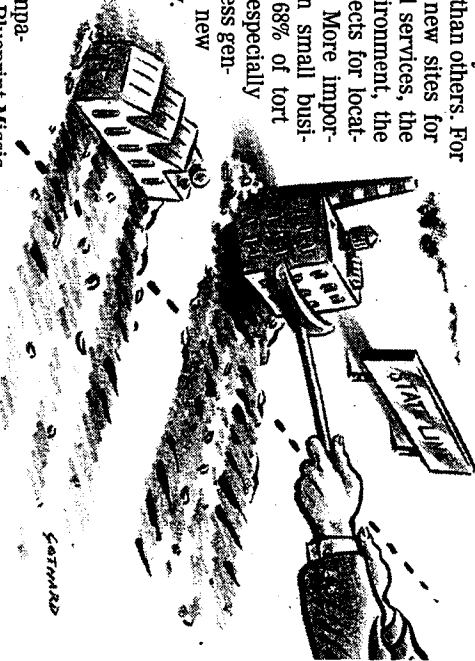
The unfair civil-justice system at the state level has made the legal system in the United States the world's most expensive and imposes huge costs on consumers and businesses alike.

According to a 2004 report by the U.S. Department of Commerce Subcommittee on U.S. Competitiveness, "U.S. tort costs are accelerating at an unsustainable rate, representing roughly 2% of our GDP and equivalent to over \$800 per citizen." The "cost" of a litigious society is borne

by every resident in every state—and in some states more than others. For businesses seeking new sites for jobs, production and services, the worse the legal environment, the worse are the prospects for locating their facilities. More important, the impact on small business, which bears 68% of tort costs, is untenable especially because small business generates 75% of the new jobs in our economy.

Recognizing the importance of attracting new jobs, Mississippi is now marketing its legal reform efforts to companies across America. Blueprint Mississippi, a consortium of business and elected officials, set as its top goal to raise the state's stature as a business location. Its primary recommendation: to promote the fact that Mississippi now has a fair and balanced legal system. Before comprehensive civil-justice reform was enacted a year ago, the state ranked dead last as a place to do business in a U.S. Chamber of Commerce survey of senior corporate attorneys.

Why was Mississippi so unattractive to business? Several counties in the state were described by the American Tort Reform Association as "judicial hellholes" because their runaway courts were magnets for lawsuits from all over the nation. A combination of Haley Barbour's leadership, sound decisions from the Mississippi Supreme Court, and a state of civil-justice reforms are bringing business



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back to Mississippi and stabilizing the state's medical liability marketplace.

Consider Gov. Rick Perry's efforts to reposition Texas as a business-friendly state. In 2003, facing a huge budget deficit and a civil-justice system run amok, Gov. Perry pushed for comprehensive tort reform and a balanced budget with no new taxes. Consider, too, the reform effort interplay between several Southeastern states this year. With vocal business community support, legislatures in Georgia and South Carolina have passed comprehensive tort reform despite decades of "dead on arrival" legislative attempts killed by well-funded trial lawyer groups. A key grassroots "selling point" was the fact that progress toward reform was being made in the neighboring state. South Carolina lawmakers, led by Gov. Mark Sanford, pointed to Georgia's

legislative success and quickly enacted reforms within a month of their neighbors. Although more is still needed in Florida, business leaders and their receptive counterparts in the legislature, under the leadership of Gov. Jeb Bush, also expanded on initial reforms enacted a few years ago. Why? Because they realize how much they stand to lose when other states have more attractive business and legal environments.

Competition among states for jobs will continue to fuel the momentum in favor of legal reform. The time is ripe for CEOs and site-selection executives to take advantage of every opportunity to tell state officials that legal reform is a key factor in deciding whether to keep jobs where they are and where to expand. As every elected official knows very well, job growth is the key to a strong economy and winning the next election. Every American has a stake in this issue.

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