

DOUG REICHLEY

For

STATE HOUSE

Good afternoon. Today I am announcing my support for legislation recently introduced in the State Senate which is intended to reform the legal doctrine of joint and several liability and to rein in the modern trend of runaway frivolous litigation. This legal concept of forcing a financially secure defendant to pay more than his fair share has become an impediment to economic development here in Pennsylvania, and a burden on all persons and companies who must pay higher insurance premiums to cover the exorbitant practice of compelling defendants in civil cases to pay more than their proportion of damages. By bringing about common sense reform to this area of the legal system here in Pennsylvania, we can also further the progress made in the recently enacted legislation to bring about changes in the field of medical malpractice and ensure that senior citizens, parents, and children all receive the health care we are entitled to expect without having to undergo needless tests and a faceless health care bureaucracy.

To understand why there is a need for this reform in the legal system, one needs to examine the development of concepts such as comparative negligence. For many years, the prevailing legal standard held that if a plaintiff was partially responsible for the cause of his or her injuries, that plaintiff was precluded from recovering any damages from a defendant, no matter how responsible that defendant was for causing the injuries. In 1976, the Pennsylvania legislature passed a statute establishing the premise that a plaintiff was precluded from recovering damages only when the plaintiff's own negligence exceeded that of the defendants. This was a logical progression from the old standard, and displayed a common sense notion that plaintiffs and defendants should be held accountable for their own specific degree of causation of certain injuries.

Joint and several liability was originally developed to allow a plaintiff to join all possible responsible parties in a single civil suit rather than having to file separate actions against each defendant. But what was meant as a tool for improving the efficiency of the legal system has been contorted into a lottery giveaway in which plaintiffs do not look to hold the most culpable party accountable for injuries, but instead go fishing for any wealthy defendant even tangentially connected to a factual situation in order to sweeten the pot at the end of the case. As a result, it is not uncommon for a civil defendant, who is not primarily at fault for the plaintiff's injuries, to pay most of the damages because that defendant has the "deepest pockets".

Under the bill introduced by Senator Mowery and co-sponsored by my friend Senator Dent, a proportional system for the allocation of payment of damages would replace the current method used, where any defendant who is found liable to a plaintiff by even the smallest percentage of responsibility, could wind up paying the bulk of a jury award. Under the present statute, if the party held legally responsible for the plaintiff's injuries cannot pay the jury award, a plaintiff is entitled to start going after more financially secure defendants for payment of all damages, no matter how little that particular defendant was for causing the plaintiff's injuries. The legislation I support would require a civil defendant to pay only a percentage of damages equal to the percentage of liability established by a jury or fact finder. This proposal would restore fairness

and balance to our legal system, and remove the specter of unfair lawsuits hanging over companies and institutions doing business in Pennsylvania.

The net effect of joint and several liability on the people of Pennsylvania is not an improved chance of recovery against the parties who have caused suffering, but comes in the mostly hidden costs of doing business here in the Commonwealth – higher insurance premiums, inflated overhead expenditures, a reluctance by corporations to engage in research and development because of fear of being sued, and the eventual loss of jobs because employers will choose to locate in states which have more enlightened approaches to tort reform. By enacting the kind of legislation I am advocating here today, the General Assembly can join the majority of states who have recognized the need to level the playing field and to limit the share of damage awards to be paid by civil defendants to the proportion determined by a jury that the particular defendant was liable. Again, this does not mean that plaintiffs will be barred from suing multiple defendants, nor does it mean that a jury cannot award a large amount of monetary damages to a plaintiff who has been grievously injured. All that this reform would enact is to hold the most culpable party the most responsible for paying the most of the award.

If we look to our neighbors on three sides, we see that in Ohio, New York, and in New Jersey, the legislatures of those states have seen the wisdom of reforming the concept of joint and several liability on grounds of fairness. Ohio abolished joint and several liability in some cases where a plaintiff is found to be contributorily negligent, and New York and New Jersey have established thresholds where defendants are not subject to joint and several liability unless their actions reached a certain proportion of the blame for the injuries. We need to enact similar if not more aggressive legislation here in Pennsylvania if for no other reason than this – jobs, jobs, and jobs.

As our Commonwealth attempts to deal with the most severe budget deficit of a decade, the key to sustained economic viability is to attract and retain jobs here in the Lehigh Valley and throughout Pennsylvania. In addition, with a population that has the second highest number of senior citizens per capita, and the increasing expansion of the state's share of health care costs for retired persons, it is necessary to recruit and maintain employment here to pay for the subsidization of prescription coverage and health care through payroll taxes and lottery proceeds. Lastly, by continuing tort reform here in Pennsylvania, we can continue to address the need to enhance our state as a location for qualified medical professionals to set up practices and work in our hospitals. By enacting tort reform, hospitals and doctors would pay lower malpractice premiums and experience greater availability of malpractice insurance, thus reducing health care costs. By presenting Pennsylvania as an attractive place for the health care industry to locate, everyone from senior citizens to pre-school age children reap the rewards of more available and more affordable medical treatment.

This is the kind of vision and leadership the people of the 134th State House District deserve and, when elected, I promise I will deliver. The message is clear - if you want help to improve health care, cut taxes, retain jobs, and lower your insurance premiums, vote for Doug Reichley. If you want to pay higher taxes and more for your health insurance, vote for one of the other guys in the race.