

List more vendetta than anything else

BY JEFF RAYMOND

The American Tort Reform Foundation's annual "Judicial Hellholes" list ought to be called a vendetta rather than a report.

As national media and researchers have pointed out, "Hellholes" has no methodology other than the whims of a group whose backers include tobacco companies, makers of defective products and dangerous drugs, and insurance companies that would rather pad their pockets than pay legitimate claims.

As an "area to watch," according to this year's edition, Oklahoma has "characteristics consistent with Judicial Hellholes." What exactly those characteristics are is anyone's guess — no other report receives such repeated, widespread coverage with so little attention paid to how the authors arrive at their conclusions.

This year's edition suggests Oklahoma is on a downward spiral because of reports of an increase in class-action lawsuits and judges with reputations for allowing them. This is one step removed from gossip and hardly the basis for disparaging an entire state — especially when ATRF could easily have checked out these rumors.

"Hellholes" also rips Oklahoma for two state Supreme Court rulings whose effect on lawsuits so far has been negligible.

From 2003-07, a period during which the Affordable Access to Health Care Act of 2003 was in effect and later invalidated, medical negligence filings in Oklahoma and Tulsa counties averaged 3.2 and 2.6 percent, respectively, of civil filings in the two jurisdictions.

"Hellholes" sloppiness has been problematic elsewhere. Counties — even an entire state — have experienced the opposite of what ATRF has alleged. West Virginia has topped the list or hovered nearby in recent years despite its absence in 2002 and record of capping damages in medical malpractice cases, revamping its workers compensation system and enacting other ATRF-supported measures. Yet West Virginia can't seem to remove itself from the bull's-eye.

Moreover, the state fared poorly in 2005 because of a large lawsuit that turned out not to have even been filed there. An online search easily could have cleared that up, should ATRF have been interested in checking.

Madison County, Ill., was anything but the medical malpractice and class-action haven the report has made it out to be: The Associated Press and local media discovered that the county had seen a large drop in asbestos and class-action litigation and only four medical malpractice and wrongful death verdicts in plaintiffs' favor from 1996-2003.

As West Virginia's and Madison County's treatment has shown, ATRF won't be happy until our courtrooms are shut to all but the wealthiest, most powerful among us.

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