

Tuesday, February 20, 2007

Hammered by their own

We generally have taken the side of plaintiffs' attorneys in their struggle against so-called "tort reform," because what sounds like reform so easily can become the subversion of both legal rights and recovery options.

But the fact is, the plaintiffs' bar has an image problem. And, if it is the butt of jokes, it must accept some of the blame.

A cartoon in a recent state bar magazine, by assistant attorney general Jim Herrick, depicts a lawyer in ragged suit, sitting on the sidewalk beside a sign that reads, "Will sue for food," prompting a passer-by to remark, "It's just the effect of tort reform, I suppose."

This has turned the necks of some plaintiffs' lawyers purple. Louisville's Ann Oldfather insists, "There is absolutely nothing funny about the notion that the effect of tort reform is to reduce lawyers to the status of homeless beggars, when the real victims ... are the injured person who can no longer receive full compensation."

But the fact is, some members of the plaintiffs' bar are indeed rip-off artists, such as those involved in Kentucky's appalling fen-phen case. Lip-licking TV commercials routinely go too far (for example, identifying lawyers as "heavy hitters" or "The Hammer," who muscle up "every single dime" clients desire, and featuring explosions, car wrecks and falling bodies). And occasional awards in some cases really have been outrageous, even prompting action by the U.S. Supreme Court.

Opponents of such awards have put up lots of money to elect judges less likely to grant them. Several states have moved, through law or regulation, to address the "problem."

"Reform" has made life so tough that some plaintiffs' attorneys, as well as their state and local bar associations, are fighting back, with image-improvement campaigns that include feel-good TV spots.

Maybe these lawyers are so sour because most of the easy money already has been got and their antagonists are making their future even more difficult. Whatever the cause, they should remember that their own heavy hitters have brought on some of the problem themselves.
