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**LEGISLATORS CONSIDER TORT REFORM AT   
NCOIL SPRING MEETING**

**Albany, New York, February 25, 2003 ?**Legislators at the February 20-23 Spring Meeting of the National Conference of Insurance Legislators (NCOIL) in Savannah, Georgia, considered whether caps on non-economic damages and other tort-system reforms would alleviate consumer and insurer concerns about the high costs of liability insurance coverage.  The February 22 panel discussion, entitled *Tools for Tort Reform: Do They Work?*, was part of an ongoing NCOIL investigation into possible state solutions to the tort dilemma.

Experts debated the impact that reforms of joint-and-several liability, collateral-source, class-action, and punitive-damage laws might have on what is commonly described as an overburdened tort system.  Michael Hotra, director of legislation and communications with the American Tort Reform Association (ATRA), said state legislators could effectively address the issue by reforming state venue laws in order to eliminate plaintiff-friendly jurisdictions known for their large punitive damage awards.  Mr. Hotra added, among other items, that such non-economic damages should reflect a “rational relationship” between the defendant’s conduct and the economic costs incurred by the plaintiff.

Richard Middleton, past president of the Association of Trial Lawyers of America (ATLA), countered that only three percent of all tort cases result in punitive damages.  He added that business-to-business litigation represented half that three percent and said that in the 1990s the number of tort cases to reach trial dropped steadily.  Caps, he continued, disproportionately affected seniors, minorities, and women.

JoAnne Kron, counsel with Allstate Insurance Company, addressed the economic impact of the current tort system on auto insurers and asked NCOIL to consider an in-depth study into why no-fault insurance systems, in their current forms, have resulted in some of the costliest approaches to auto insurance.  She said stronger verbal thresholds and anti-fraud protocols would help produce a sound no-fault system, as would caps on non-economic damages.

The session opened with Scott Harrington, professor of insurance and finance at the University of South Carolina, who said, in part, that the premise behind the tort liability system—in which the “name of the game is deterrence”—conflicted with a basic principle of insurance: how much is a consumer willing to pay before receiving compensation?  Mr. Harrington’s presentation was co-sponsored by the Griffith Foundation for Insurance Education in Columbus, Ohio.

The tort reform session followed Property-Casualty Insurance Committee debate on February 21 regarding both the public-policy impact of current asbestos litigation and the merits of a small homebuilder liability model act known as the *Notice and Opportunity to Cure Model Act*.  The model would, generally, provide an alternative method for resolving construction defect cases before a homeowner could file suit in court.  Debate on both issues will continue at the July 10-13 NCOIL Summer Meeting in Williamsburg, Virginia.

Legislators active in NCOIL have an interest in insurance issues, and most are in legislative leadership, chair the committee responsible for insurance, or are members of such committee in their respective state houses across the country.

For more information, please contact the NCOIL National Office at (518) 449-3210.

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