



Texas Crane Owners Association

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Texas Has Gone Nuclear (And not in a good way)



The circling-the-drain effect.

Nuclear verdicts spook insurers.

Insurers then pay to settle claims.

Advertising lawyers pocket more money.

They buy more ads.

More ads generate more lawsuits.

You know the game:

1. Lawyers refer clients to healthcare providers who over-bill.
2. High medical bill increase economic & noneconomic damages.
3. Judges don't rein in plaintiff lawyers.

The result: huge verdicts.

1. \$7.375 billion in 2022 is largest
2. 3 verdicts over \$1 billion
3. 10 over \$300 million
4. \$89 million is 25th on the list in Texas.

What can we do about inflated medical damages?

Follow Florida's lead.

Medical damages must be based on amounts actually paid; not wildly inflated amounts providers make up.

1. If insurance is used, jury hears about amount actually paid.
2. If insurance is available but not used, jury hears amount that insurance would have paid.

3. If plaintiff is uninsured, jury hears 150% of the average amount paid by private payers in the county & month services were provided as drawn from the All-Payers Claims Database.

5. Letters of protection should be discoverable & admissible.

6. Plaintiffs should be required to state who referred him/her to the providers he/she used.

What can we do about enormous noneconomic damages awards?

- Cap them.
- Give jurors better instructions.
- Both.

Cap at what level?

Texas's medical malpractice cap is \$250,000/\$750,000.

Other states average around \$1 million.

- Some adjust for inflation.
- Some have exceptions.

Realistically, can we cap noneconomic damages?

Maybe

3/5ths vote required:

- 90 'aye' votes in House.
- 19 'aye' votes in Senate.

How can we improve the jury charge?

1. Require a unanimous verdict.
2. Have only two blanks for jury to complete—past & future noneconomic damages.

3. Give jury definitions of pain & suffering & mental anguish.
4. Instruct that noneconomic damages not used to punish.
5. Create a soft cap by making judge justify excess award.



How do we succeed?

Collective effort through Lone Star Economic Alliance (LSEA).

- Conduct social media campaign.
- Build an active membership.
- Constant legislative contact by LSEA members.

What can we do about social inflation?

- No longer cede the airwaves to the plaintiff lawyers.
- Long-term, multi-million dollar advertising campaign.

A note about trucking cases...

The Lucio Amendment should be deleted.

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Thank you!
