

Medals awarded for year's 'best,' 'worst' state civil justice legislation

Oklahoma's comprehensive tort reform law wins gold, as New York's trial lawyer-backed expansion of securities liability takes dubious 'Silver'

WASHINGTON, D.C. — As most state legislatures have now adjourned for 2009, the American Tort Reform Association has announced awards for what it deems both the best and worst pieces of civil justice legislation considered by state lawmakers across the country this year.

"Just as they have done in Congress, litigation industry lobbyists redoubled their well-coordinated efforts to push liability-expanding legislation through the statehouses this year," began ATRA president Tiger Joyce. "So, ATRA and its state allies stepped up our own 'Defensive Efforts' campaign, tracking and working to defeat hundreds of trial lawyer-backed bills that had a real chance of final passage.

"Clearly, our struggling economy is not suffering from a shortage of job-killing, growth-sapping lawsuits," Joyce continued, "and, working with our allies in the states, we succeeded in making that commonsense case to majorities of state lawmakers who, in turn, managed to stop roughly 90 percent of the trial lawyer legislation.

"Of course, there were several positive state tort reform bills considered this year, as well," reported Joyce. "Of those, enactment of a comprehensive

tort reform package has earned Oklahoma State Rep. Dan Sullivan, Senate President Glenn Coffee and The State Chamber of Oklahoma ATRA's first annual 'Gold Medal for the Best State Civil Justice Legislation' in recognition of their tireless efforts in the Sooner State."

At the other end of the spectrum comes ATRA's "Sheldon Silver Medal for the Worst State Civil Justice Legislation," named for the notorious personal injury lawyer and New York State Assembly Speaker Sheldon Silver. "Arguably, no single state lawmaker in the country has done more to increase the profits of personal injury lawyers at the expense of jobseekers, consumers, taxpayers and health care patients," Joyce explained.

"Though ATRA considered many onerous trial lawyer bills from many states," Joyce said, "we decided it was only fair to single out a New York bill and its chief sponsor for the dubious distinction of being the first 'Sheldon Silver Medal' winner.

"Ignoring the fact that the Empire State's economy is in shambles, many state lawmakers there, led by Speaker Silver, have nonetheless seen fit to push several liability-expanding bills that can only drive more businesses into bankruptcy and more jobs out of state."

But legislation sponsored by a Silver protégé, Assemblyman Richard Brodsky (92nd District) of Westchester County,

is the worst of such bills, Joyce said. Along with its Senate companion bill, S. 5768, Brodsky's A. 8646 would create a new private right of action under the state's securities law known as the Martin Act. No longer would the state's attorney general be the only one authorized to sue financial entities for negligence.

"Brodsky's bonanza for trial lawyers would not even require plaintiffs to prove that they actually relied on defendants' allegedly negligent conduct or representations," Joyce added, but it would, conveniently for trial lawyers, lengthen the statute of limitations to six years from the date of discovery.

"The bill could only prompt more companies to flee and otherwise decide against relocating to New York, shrinking further the state's critical financial sector, which, until recently, provided roughly 20 percent of state tax revenues. Talk about killing the golden goose," Joyce concluded.