

Tort Reform: Healthcare's Moral Collapse, a Trillion-Dollar Betrayal

Opinion - by Bill Smith, November 2024 © all rights reserved.

Introduction: The Myth of Tort Reform

It took 50 years of lobbying by powerful insurance companies, lawyers defending negligent doctors, and corporate interests to create the perfect storm: a system rigged to protect profits over people. Tort reform, sold as a solution to a manufactured “lawsuit crisis,” has instead left behind a trail of devastation:

- **250,000 lives lost annually** to preventable medical errors, now the third leading cause of death in the United States.
- **\$50 billion wasted annually** in taxpayer money through Medicare and Medicaid payments to negligent providers.
- A **trillion-dollar betrayal** over decades, as the legal system shields tortfeasors—those guilty of causing harm—while denying victims justice.

Tort reform is not about protecting patients or improving healthcare. It’s about shielding negligent actors from accountability, silencing victims, and ensuring that financial interests reign supreme. This moral collapse has eroded trust in healthcare, leaving patients vulnerable and families devastated.

The term “tort reform” itself is a masterpiece of deception. It sounds reasonable, even necessary—who wouldn’t want to reform a system supposedly overrun by frivolous lawsuits? But the truth is far more sinister. Tort reform is a carefully orchestrated fraud, crafted to dismantle accountability and prioritize profits over safety.

I know this all too well—not just as the author of this paper, but as a grieving father. My son, Zander, was just 20 years old when he died from a preventable medical error. His death was not only a personal tragedy but also a stark reminder of how this rigged system fails its most vulnerable victims.

This paper exposes the real cost of tort reform—not just in dollars, but in lives. It reveals how a corrupted legal system, fueled by corporate greed, has turned healthcare into a betrayal of its most sacred duty: to protect and heal.

The Origins of Tort Reform: A System Built for the Powerful

The term “tort reform” gained traction in the 1980s and 1990s, fueled by claims of a “lawsuit crisis” that painted the civil justice system as overrun by frivolous lawsuits. This narrative, though unsubstantiated, was skillfully marketed to the public and policymakers as a justification for sweeping legal changes.

Reports like *The Economics of Tort Reform* by the Perryman Group shifted the focus to financial metrics, emphasizing the alleged economic benefits of limiting litigation. Dr. Ray Perryman, who boasts 40 years of economic analysis, focuses on dollars and cents while ignoring the human cost of negligence. He fails to acknowledge the well-established rule that **accountability leads to quality**. In

healthcare, low accountability leads to poor care, more harm, and more deaths—such as preventable surgical errors or misdiagnoses.

Instead of advocating for solutions that prioritize patient safety and justice, Perryman’s work perpetuates a system where corporate profits are prioritized over patient safety and justice. His name has become synonymous with a cold, calculated approach to tort reform, where the lives of patients like my son are reduced to mere statistics. This lack of compassion and accountability has left families like mine—and countless others—without recourse, while taxpayers unknowingly fund a system that rewards negligence.

Barriers to Justice: A System Rigged Against Victims

When my son, Zander, died at just 20 years old after a preventable medical error, I thought I could hold the responsible parties accountable. I was wrong. What I encountered was a system designed to fail victims like him. Tort reform has created nearly insurmountable barriers for patients seeking justice:

- **Caps on Damages:** Many states limit how much victims can recover, making it financially unviable for lawyers to take cases, even when negligence is clear. How do you put a cap on a lifetime of grief—like no other—that comes from the wrongful death of a child?
- **The Peer Testimony Requirement:** Victims must find an expert in the identical specialty, usually from the same state, who is also willing to testify against a peer. This is virtually impossible in an industry where professional loyalty and fear of retaliation run deep, compounded by an unrealistically short Statute of Limitations, often just two years.
- **The "Frivolous Lawsuit" Myth:** High-profile cases that result in multimillion-dollar awards are sensationalized to the public, usually blown out of proportion to justify these laws. However, in reality, such awards are often reduced or overturned by appeal, and almost never publicized.

As Laminack, Pirtle & Martines highlight, caps on noneconomic damages disproportionately harm vulnerable groups like children, retirees, and disabled individuals. In Texas, the \$250,000 cap implemented in 2003 has diminished in value due to inflation, now worth only \$150,000 in today’s economy. This cap has effectively devalued lives, favoring high-income individuals while leaving others without meaningful recourse.

Finally, after many days of searching, calling, and recovering from repeated rejections, I found a law firm skilled in Zander’s case particulars. Presenting the case to the law firm required me to fully understand the technicalities of my son’s case. I read the 1,000-page report on what happened in the operating room and uncovered evidence of a cover-up of the malpractice. But by then, I had already collected a stack of rejection letters from lawyers who wouldn’t take it—not because it lacked merit, but because the system made it nearly impossible to succeed.

Tort reform is properly defined as “a system that doesn’t protect patients; instead, it shields negligent healthcare providers by creating an atmosphere of impunity.”

The Medicare and Medicaid Connection: Rewarding Negligence with Taxpayer Dollars

As if the barriers created by tort reform weren’t enough, the CMS (Centers for Medicare & Medicaid Services) reimbursement system adds insult to injury. Every year, CMS wastes an estimated \$50 billion

reimbursing hospitals and providers for care that, through preventable errors, harms or even kills patients. This broken system rewards negligence with taxpayer dollars, perpetuating a cycle of harm and impunity.

Here's how it works—and why it's failing:

1. **Inadequate Reporting Requirements:** CMS relies on hospitals and providers to self-report adverse events and outcomes. Unsurprisingly, many choose not to report their own mistakes.
2. **No Standardized Oversight:** There is no consistent, enforced requirement for investigating or addressing medical errors. As a result, many cases of negligence go unreported and unpunished.
3. **Reimbursement Without Accountability:** CMS continues to reimburse providers even for procedures that result in harm or death. This includes payments for preventable errors like surgical complications, medication overdoses, or hospital-acquired infections.

The result? A punishment-free platform for the healthcare industry, where negligence is not only tolerated but financially rewarded with your tax dollars.

The Human and Financial Toll

The impact of tort reform and CMS failures is staggering:

- **Lives Lost:** At least 250,000 Americans die each year due to preventable medical errors, making it the third leading cause of death in the United States. Some studies suggest the toll could be as high as 440,000.
- **Patients Harmed:** Millions more suffer injuries—many of them permanent—that could have been avoided if accountability were prioritized, as it has been proven in industries like aerospace.
- **Taxpayer Money Wasted:** \$50 billion annually is funneled into a broken system that rewards negligence instead of incentivizing safety.

This isn't just a healthcare issue—it's a moral crisis that undermines public trust and sacrifices lives for financial gain. Patients are paying with their lives. Families like mine are left devastated. And taxpayers are footing the bill for a system that betrays them at every turn.

Conclusion: No More Lives Lost

Tort reform and the CMS reimbursement system have created a perfect storm of negligence. It's time to break this cycle. My son, Zander, was more than a statistic. He was a young man with courage, faith, and a radiant smile that touched everyone he met. His death was preventable, and so are the deaths of 250,000 Americans each year.

I'm actively reaching out to the Trump administration, Elon Musk, Vivek Ramaswamy, Robert F. Kennedy Jr., and Dr. Ben Carson, all to join me in **“Zander's Justice,”** a plea to enact specific changes under the MAGA Change Umbrella and break the dreadful cycle caused by tort reform.

We owe it to Zander and every patient harmed by this broken system to demand **“Zander's Justice.”** Let's ensure no family endures what mine has suffered and make healthcare accountable to the people it is meant to serve.