

Originally Processed With FOIA(s):

S

FOIA Number:

S

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the George Bush Presidential
Library Staff.**

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Speechwriting, White House Office of
Series: Speech File Draft Files
Subseries: Chron File, 1989-1993

OA/ID Number: 13586
Folder ID Number: 13586-003

Folder Title:
Civil Justice Reform Executive Order Signing 10/23/91 [OA 6038]

Stack:

G

Row:

26

Section:

17

Shelf:

4

Position:

1

Bob - Tony made minor word changes and I think
he has staffed it - 6:30 pm Thurs. MK

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

*VP speech
to ABA
8-13-91*
A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers.

*Comp. Council
Report
p. 1*
Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, ^{in direct + indirect costs} and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

*Competitiveness
Council
Report
on
Civil
Justice
Reform
8/91
p. 7-10*
In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o Changes in the rules of discovery, to end unnecessary and burdensome requests;
- o Adoption of the English rule, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

Comp. Council
Report
p. 10

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

see
letter
in
file

see
letter
in
file

Comp.
Council
Report
p. 3

TIME

Wash.
Times
10-5-91
p. B6

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

Grant/Simon
A:LAWYERS / Draft four
October 22, 1991

**REMARKS: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
11:45 A.M.**

Welcome, everyone. I'm grateful to Vice President Quayle for his hard work on this issue; to our nominee for Attorney General, Bill Barr; and to the Solicitor General, Ken Starr, who headed the working group that produced this fine report.

A little more than two months ago, the Vice President outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House /// and some of the best **lawyer jokes** I've heard in years.))

But we're not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a legal system spun out of control. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, the Competitiveness Council, chaired by the Vice President, has recommended extensive and concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include changes in the rules of discovery; adoption, in certain areas, of the "loser pays" rule; encouragement of alternative dispute resolution; caps on punitive damages; and changes in the rules on expert evidence, to end the use of "junk science" on the witness stand.

I've named only a few of our many recommendations. Some of these proposals require federal legislation, which we will transmit to the Congress very soon. Other proposals require action by the Supreme Court. Today's Executive Order will apply most of these recommendations, where possible, to the federal government. And I'm asking every agency head to do everything possible to fully and effectively implement the Executive Order.

With all that said, let me get to the heart of the matter.

Civil justice reform is vital to America's well-being. I'm talking about access to health care and quality of life -- parents are having a tough time finding an obstetrician in some states because many obstetricians found it wasn't worth it to practice anymore. I'm talking about beneficial new products that never reach the marketplace at all because of liability concerns.

I'm talking about jobs. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

And I'm talking about inflation and consumer prices. The owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy."

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage

senseless lawsuits. Maybe it's because we have most of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, the fear of outlandish litigation has begun to strangle the American Dream.

Americans understand that civil justice reform means growth, competitiveness, and jobs. That's why I feel so strongly about these recommendations by the Vice President's Competitiveness Council. This is not a partisan issue -- it's a matter of overcoming the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

The Federal Government is the largest single consumer of legal resources. As the client, I'm asking you, the government's top lawyers, to help us change the status quo. The Executive Order will hold you to higher standards than private practitioners. But it will also give us the opportunity to the lead the country -- by example -- toward civil justice reform.

Today we're taking the first step. And now it's my pleasure to ask Bill Barr and Ken Starr to join us up front as I sign this Executive Order.

#

Simon

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

**REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?**

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best **lawyer jokes** I've heard in **years**))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, *in direct + indirect costs.* and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery**, to end unnecessary and burdensome requests;
- o **Adoption of the English rule**, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgements all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #



American Tort Reform Association

1212 New York Avenue, N.W. • Suite 515 • Washington, D.C. 20005 • (202) 682-1163

THE LIABILITY CRISIS AND ITS IMPACT ON THE AMERICAN CONSUMER

The liability crisis is having a severe impact on the American consumer. The cost of increased liability exposure is a major component in the price of goods and services. This has direct consequences for American competitiveness and innovation which ultimately affects national employment and the costs of goods and services for consumers. Many products have simply become unavailable at any price. For service-oriented businesses such as day care centers, restaurants, and bus companies, the decreased availability of liability protection and increased threat of being sued is as serious a problem as the cost. As more and more of these businesses are forced to close some communities are finding themselves without access to important services.

FACTS

1. American manufacturers and sellers pay product liability insurance rates that are 20 to 100 times higher than their foreign competitors, placing American firms at a competitive disadvantage in both foreign and domestic markets.
(Product Liability and Tort Reform; National Legal Center for the Public Interest, April 21, 1982)
2. Under product liability law today in the majority of states, American manufacturers are potentially responsible for harm caused by their older products for as long as they remain in use. Foreign manufacturers, on the other hand, do not have these older products in this country and, therefore, their product liability insurance costs often are substantially less.
(James H. Mack, Public Affairs Director, National Machine Tool Builders Association; June 10, 1982)
3. The American machine tool industry is about three quarters what it was a decade ago. Overseas competitors have filled many of the gaps. One of the impediments in competing against foreign companies is product liability costs.
(Testimony, John Corcio, CEO of Mack Trucks, March 24, 1987) c
4. Uvex Winter Optical in Rhode Island has stopped manufacturing and distributing motorcycle and ski racing helmets because of liability costs.
(Testimony, John Corcio, CEO of Mack Trucks, March 24, 1987)

5. Toy manufacturer F. J. Strauss Co., in New Jersey, has had to lay off employees to help absorb the costs of insurance rate increases. Typical of other toy manufacturers, F. J. Strauss Company anticipates it will have to shut its doors and lay off 50 additional employees if there is no relief for the company.
(Testimony, John Corcio, CEO of Mack Trucks, March 24, 1987)
6. There are no longer any domestic producers of trampolines, inflatable balls or ice hockey equipment. Liability costs have been a major factor in driving these industries out of America.
(Sporting Goods Manufacturers Association)
7. 1300 truckers went out of business in 1985 due to liability-related insurance requirements.
(May, 1986 GAO Report)
8. Cessna Aircraft Co. laid off 900 employees in 1986 and halted production of its piston aircraft when liability premiums became the largest component of their product's cost. Employment is down 66% from 1980 in the general aviation industry.
(Ed Stimpson, President, General Aviation Manufacturers Association, August 14, 1986)
9. The high cost of product liability insurance, the expense of defending lawsuits, the investment in risk prevention and minimization have caused 13.5 percent of machinery companies studied to drop product lines and 11.5 percent to decide against development of a particular new product.
(Randolf J. Stayin, partner in Taft, Stettinius & Hollister Testimony, March 24, 1987)
10. Product liability costs for American sporting goods manufacturers in 1982 was 4.2 percent of total sales compared to 0.5 percent of sales for their Japanese competitors.
(Randolf J. Stayin, partner in Taft, Stettinius & Hollister, Testimony, March 24, 1987)
11. \$5 of the cost of a \$25 wooden stepladder goes toward the manufacturer's liability insurance.
("Sky High Damage Suits;" U.S. News and World Report, January 22, 1986)
12. In the last ten years, the number of companies that manufacture football helmets dropped from 18 to 2. Recently, one of the last two companies announced its plan to sell because of the liability exposure and cost. In 1985, insurance and legal costs were higher than all production costs combined.
(Sporting Goods Manufacturers Association)
13. Only two companies currently manufacture the diphtheria-tetanus-pertussis (DTP) vaccine. Recent lawsuits seeking more than \$1 billion in claims have led one DTP company to almost triple the cost of its vaccine in order to self-insure, and both companies have considered closing their doors.
(Washington Post, May 21, 1986)

14. A major designer and producer of amateur-built aircraft kits reports that 30% of the price of a new kit-built biplane pays for liability insurance.
("The Impact of the Insurance Crisis on the Recreation Community;" by the American Recreation Coalition)
15. Almost 63 percent of consulting engineers say liability concerns inhibit their specification of new products.
(Engineer Perspective 1986, Research and Management Foundation of the American Consulting Engineers Council, December 1986)
16. Many companies are finding it increasingly difficult to obtain the services of qualified persons to serve on their boards of directors because of the increasing threat of liability and soaring insurance costs. The number of claims against directors has gone up 257% since 1974, and the average total cost per claim has risen 84%.
(New York Times, March 7, 1986, p. D1)
17. The outside directors of the Zonic Corporation in Cincinnati all resigned when the liability premiums rose from \$25,000 to \$250,000, a figure higher than the company's profits.
(State Policy Reports; November, 1986)
18. A 200% raise in insurance costs, over the past year, has caused many towns to do without 4th of July fireworks displays.
(Constance Mitchell, N Y Times, June 6, 1986)
19. Due to increasing premiums and lawsuits blaming injuries on football helmets, \$25 of the \$100 retail price of a helmet is the cost of liability insurance.
(Stephen Wermiel, Wall Street Journal, May 16, 1986)
20. Mitchell Karlan, the President of the Los Angeles County Medical Association, claims that, "Almost one-third of all the tests that are done by doctors are done because of fear of liability." For Medicare alone, this accounts for, "\$20 billion a year in wasted money," according to Karlan.
(Stephen Wermiel, Wall Street Journal, May 16, 1986)
21. Half of all ice skating rinks report they cannot obtain liability coverage and may be forced to close.
(Tort Policy Working Group, An Update on the Liability Crisis, March 1987)
22. The Amateur Softball Association had its premiums increase by over 2,000% in 1986. While the Soccer Association for Youth Organization experienced an increase of 500% in its liability insurance cost.
(Tort Policy Working Group, An Update on the Liability Crisis, March 1987)
23. A Massachusetts company, whose metal folding crib met the government safety standards refused to place the product on the market because of the difficulty of obtaining liability insurance.
(Tort Policy Working Group, An Update on the Liability Crisis, March 1987)

24. The Merchant's Corporation of America failed to market a new infant car seat, which they claimed would be the highest quality unit available, because of the potential liability risks.
(Tort Policy Working Group, An Update on the Liability Crisis March 1987)
25. Puritan - Bennett, the sole domestic manufacturer of anesthesia gas machines, stopped producing the machines because of its inability to obtain insurance.
(Tort Policy Working Group, An Update on the Liability Crisis March 1987)
26. The Journal of the American Medical Association reports that 12% of obstetricians have stopped delivering babies and 38% of surgeons are avoiding high-risk cases because of liability concerns.
(Tort Policy Working Group, An Update on the liability Crisis March 1987)
27. The Boy Scouts of America's liability insurance costs jumped from \$2 million in 1984 to \$10 million in 1986. This increase has caused the Boy Scouts to charge each unit a \$20.00 fee, the first in the Scout's 76 year history.
(Journal of Commerce, August 19, 1986)
28. Yellow Cab taxis in Philadelphia were forced to raise their price by 25 cents a ride after being forced to consider self-insurance.
(Journal of Commerce, August 19, 1986)
29. The rising liability costs for day care centers, which have jumped by 500 to 2000% in the last two years while coverage has decreased, has caused many centers to close down.
(The Dallas Morning News, September 14, 1986)
30. In New York, liability insurance cost increases of 500% for ski area operators may cause many small operators to go out of business.
(Journal of Commerce, November 17, 1986)
31. The Columbia Parks and Recreation Association are unable to open to the public, a slide they spent \$400,000 to build, because they were unable to obtain liability insurance for the slide.
(Lisa Leff, Washington Post, August 30, 1986)
32. Some small European companies have been forced to forego the American market, due to high product liability premiums.
(Jacques Neher, Washington Post, December 28, 1986)
33. In Miami, one hospital closed its emergency room and at least seven others have cut back their emergency services because doctors, protesting high malpractice insurance costs, will not be available.
(Washington Post, January 2, 1986)

34. Kazmaier Associates Inc. has put its Bike football helmet subsidiary up for sale rather than pay the multimillion dollar liability insurance costs. Richard W. Kazmaier, Jr., head of Kazmaier Associates, Inc., claims that anywhere between 45% to 85% of sales are used to pay insurance costs. After Bike there is only one other manufacturer of football helmets.
(Mark Potts, Washington Post, March 10, 1987)
35. One hundred community and private pools in the Washington area had to remove their high diving boards to save money on extremely high insurance rates or to avoid losing their coverage all together.
(Mary Jordan, Washington Post, March 25, 1986)
36. Due to rising liability insurance costs, swimming and diving clubs in the Washington area may not be able to field teams this summer.
(Chris Spolar, Washington Post, May 1, 1987)
37. Will County, Illinois, was forced to close its forest preserves until it could get a new liability policy on them, and Blue Lake, California had to shut its skating rink, parks and tennis courts.
(Time, March 24, 1986)
38. Merrill Dow dropped a remedy for morning sickness that was approved by the FDA and had been on the market since 1956, the company also created a \$120 million settlement fund rather than face 700 cases claiming that the product caused birth defects.
(Wall Street Journal, February 4, 1986)
39. Professional liability raised the cost of physicians services by around 15% in 1984.
(The Cost of Medical Professional Liability, Roger A. Reynolds, John A. Rizzo and Martin Gonzalez)
40. Physicians are using less than optimal doses of chemotherapy for cancer patients because of the belief that more severe side effects will inevitably cause them to be sued.
(Director National Cancer Institute; Washington Post, March 25, 1986.)
41. A survey of Tennessee physicians revealed that 95% of the physicians ordered more tests, more diagnostic procedures, and more frequent hospitalizations in response to the threat of malpractice litigation.
(Bell, Legislative Intrusions into the Common Law of Medical Malpractice: Thoughts About the Deterrent Effect of Tort Liability, 1984)
42. Increases in professional liability premium expenses are responsible for 25% of the increase in the cost of physician services since 1982.
(Socioeconomic Characteristics of Medical Practice 1986, AMA Center for Health Policy, December 1986)

43. An American College of Obstetricians and Gynecologists study, released June 8, 1987, estimates that 30% of family practitioners in rural communities will stop delivering babies because of high malpractice insurance premiums.
(Liability Week, June 15, 1987)

44. In 1980 Beech Aircraft Corporation had seven manufacturing plants. Now they have only three and operations in these plants have been reduced. Their main plant in Wichita, Kansas employed 7,600 people in 1980, the current employment is only 4,900. Liability costs have been a major cause in the decline of the industry. In Wichita, Kansas over 25,000 people have been laid off from their aviation industry jobs. The Lycoming Company, a manufacturer of piston engines in Williamsport, Pa. has laid off over 1,200 workers between 1981 and 1985. Overall employment is down 70% in the aviation industry. In 1979 the general aviation industry produced nearly 18,000 planes. In 1986, the number decreased to less than 1,500 planes, and in 1987 the industry is expected to sell less than 1,000 planes.

(Testimonies of Robert Martin, General Counsel for Beech Aircraft Corporation, Representative Dan Glickman, and Frederick B. Sontag, president Unison Industries, Inc., before Subcommittee on Commerce, Consumer Protection and Competition, July 9, 1987)

45. Unison Industries, Inc. had to stop an advanced electronic ignition project because the liability risks were too great. Today they will only undertake technologically innovative aircraft product development if they have the sponsorship of a larger company.

(Testimony of Frederick B. Sontag, president Unison Industries, Inc., before Subcommittee on Commerce, Consumer Protection and Competition, July 9, 1987)

46. Half (2,127) of the property/casualty insurance companies are in a potentially hazardous financial condition, according to the National Association of Insurance Commissioners. Life and health insurance companies are even worse off.

(The Executive Letter, Insurance Information Institute, July 13, 1987)

47. Because New York does not have a personal responsibility law for skiers, premiums for New York's ski resorts have been much higher than those of surrounding states, and thus has caused the industry to lose money and jobs. In the early 70's there were 100 ski areas in the state but in 1986 that number fell to 54.

(The Journal of Commerce, June 23, 1987)

WHAT OTHERS ARE SAYING ABOUT THE EFFECT OF THE
LIABILITY CRISIS ON THE AMERICAN BUSINESS CLIMATE

"[I]t isn't just the poor who are being left behind by the changing nature of the practice of law. Small companies, middle sized companies, for example, find it increasingly difficult to operate in today's law world. If you are a small or mid-sized company faced with thousands of dollars in deposition costs, what do you do? How do you hang in there?"

- Speech by Senator Thomas F. Eagleton, 1986 Bar Annual Meeting/Missouri Judicial Conference; 10/24/86.

"Small business is in a Catch-22 situation when it comes to liability. Legal counsels at certain times and insurance all of the time are necessities. However, legal counsel is expensive; in-house counsel is out of the question. With regard to liability coverage, self-insurance, and in most cases group insurance, are not options for small businesses. Currently, obtaining certain lines of coverage on the open market may be virtually impossible."

- Statement of John J. Motley, III, National Federation of Independent Business; before the House Ways and Means Committee, March 13, 1986.

"We have been in business for sixteen and one-half years, with a very good loss record, and have been forced to pay increasingly higher (premiums) every year. This we accepted but the 300% increase . . . (in) insurance premiums that were predicted for my small company . . . was absolutely intolerable. . . We have been preparing for an auction . . . and there will no longer be a bus company in this area to serve the needs of the public. . . I have no alternative than to give up . . ."

- Letter from Dorothy E. Shubat, Shubat Bus Company; to Norman Sherlock, President, American Bus Association; October 30, 1985.

"To afford dramatically increased insurance prices, small business may divert fund from business expansion plans, producing a significant loss to the economy of jobs, products, services and innovations. This loss includes not only the number of small businesses that contract or fail, but also the number of firms that never start-up because of the cost or unavailability of insurance."

- Frank S. Swain, U.S. Small Business Administration Office of Advocacy, before the Senate Subcommittee on Business, Trade and Tourism; December 3, 1985

"Wake up, America! In 1984 my product liability insurance premium was \$6,000. Today it is \$65,000! This is a 983% increase in four years. Give my corporation another few years with similar increases and we'll be closing our doors to 75 employees... we need legislation to curb inadequate lawsuits and outrageous awards."

- R.J. Fredericks, President of J.F. Fredericks Tool Co., of Farmington, Conn., in a December 9, 1986 full-page ad in The Hartford Courant.

WHITE HOUSE STAFFING MEMORANDUM

91 OCT 21 P 1: 52

DATE: 10/21/91 ACTION/CONCURRENCE/COMMENT DUE BY: ---SUBJECT: PRESIDENTIAL REMARKS: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☐	☒
SCOWCROFT	☐	☐	PETERSMEYER	☐	☐
DARMAN	☐	☒	PORTER	☐	☒
BRADY	☐	☒	ROGICH	☐	☒
BROMLEY	☐	☐	SMITH	☐	☒
CARD	☐	☒	MCBRIDE	☐	☒
DEMAREST	☐	☒	BOSKIN	☐	☒
FITZWATER	☐	☒	KRISTOL	☐	☒
GRAY	☐	☒	SNOW	☐	☒
HOLIDAY	☐	☒		☐	☐

REMARKS:

The attached has been forwarded to the President.

RESPONSE:

PHILLIP D. BRADY
 Assistant to the President
 and Staff Secretary
 Ext. 2702

THE WHITE HOUSE

WASHINGTON

October 21, 1991

01 OCT 21 P12:30

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAVID DEMAREST
 TONY SNOW -

FROM: MARY KATE GRANT *MKG*

SUBJECT: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING

I. SUMMARY

On Wednesday, October 23, at 11:45 a.m. in the Roosevelt Room, you will make brief remarks and sign an Executive Order implementing changes in the government's handling of civil suits. You will be addressing the general counsels of the federal departments and agencies.

II. DISCUSSION

The remarks (8 minutes, on cards) briefly outline the reforms and talk about the damage that excessive litigation is causing to the economy. The Vice President, Solicitor General and Attorney General-designate will be present.

Grant/Simon
A:LAWYERS / Draft three
October 21, 1991

**REMARKS: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
11:45 A.M.**

Welcome, everyone. [Acknowledgements]

A little more than two months ago, the Vice President outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, almost 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, the Competitiveness Council, chaired by the Vice President, has recommended extensive and concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery, to end unnecessary and burdensome requests;**
- o **Adoption, in certain areas, of the "loser pays" rule, which should be called the "fairness rule," to weed out frivolous lawsuits;**

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "junk science" on the witness stand.

I've named only a few of our many recommendations. Some of these proposals require federal legislation, which we will transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and are supporting passage of product liability reform legislation. Other proposals require action by the Supreme Court. Today's Executive Order will apply most of these recommendations, where possible, to the federal government. And I'm asking every agency head to do everything possible to fully and effectively implement the Executive Order.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in some states because many obstetricians found it wasn't worth it to practice anymore. I'm talking about beneficial new products that

simply never reach the marketplace at all because of liability concerns.

I'm talking about jobs. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

And I'm talking about inflation and consumer prices. The owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. From the hinderance of new medicines to local bans of firework displays on the Fourth of

July, the fear of outlandish litigation has begun to strangle the American Dream.

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor -- and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President's Competitiveness Council. This is not a partisan issue -- though I know that the special interest groups and the partisan appeals have already begun to fight us. It's a matter of overcoming the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

The Federal Government is the largest single consumer of legal resources. As the client, I'm asking you, the government's top lawyers, to help us change the status quo. The Executive Order will hold you to higher standards than private practitioners. But it will also give us the opportunity to the lead the country toward civil justice reform.

Today we're taking the first step. And now it's my pleasure to ask the Vice President, Bill Barr and Ken Starr to join me up front as I sign this Executive Order.

#

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	McBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

PHILLIP D. BRADY
 Assistant to the President
 and Staff Secretary
 Ext. 2702

31 OCT 17 P7:23

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, ^{almost} ~~more than~~ 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

In order to restore sanity to our civil justice system, ^{a the} ~~working group of the Vice President's Competitiveness Council~~ ^{claimed by the Vice Pres.} has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o Changes in the rules of discovery, to end unnecessary and burdensome requests;
- o Adoption of the ~~English rule~~, or "loser pays" rule, in ^{-- which should be called the "fairness rule" --} certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of ^{"junk science"} ~~"hired guns"~~ on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we ^{will} ~~hope to~~ transmit to the Congress very soon. ^{And} We've already submitted legislation on medical malpractice reform and product liability reform.

④ We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and ^{state legislators} ~~A.B.A. members~~ around the country. Other proposals require action by the Supreme Court and federal committees. ^{And} Today's Executive Order will ~~implement still others. This Order will~~ apply ^{most} ~~some~~ of these recommendations, when ^{it} possible, to the federal government. ^{And I'm asking every agency head to do everything he can to fully & effectively imple-}

With all that said, let me get to the heart of the matter.

We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ^{the executive order}

((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

And I'm talking about
practice anymore. ~~Many times~~³ *Not* beneficial new products simply
never reach the marketplace at all because of liability concerns.

I'm talking about jobs.
~~This is also an issue of rising unemployment and business~~
foreclosures. We got a letter the other day from an architect in
California named Charles Yaeger. He wrote, "I have many friends
who are going out of business because of fear of lawsuits."

And I'm talking about
~~It also affects~~ inflation and consumer prices. ~~the~~ the owner
of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us:
"As a business owner myself, the liability insurance is getting
out of hand. The manufacturers could significantly lower their
prices both wholesale and retail, which would stimulate our
economy." One study showed that foreign companies often have
product liability insurance costs that are 50, 80, even 90
percent lower than the rates paid by their counterparts in the
United States.

Maybe other countries don't have this problem because every
other Western democracy has the "loser pays" rule to discourage
senseless lawsuits. Maybe it's because we have nearly three-
quarters of the world's lawyers here in America. Maybe it's
because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new
movie /// but at one point he asks the bad guys if they're going
to beat him up. // You know what they replied? "Hey, this is
the '90s -- **we're going to sue you.**"))

You see the problem everywhere. ~~Every parent who has signed~~
a kid up for the football team ~~has~~ seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. *Comp correct. That's why I'm so grateful to the VP & Bill Barr & Ken Starr who headed the inquiry group off the CC that produced this report* It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us. *overcoming* It's a matter of ~~fighting~~ the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

THE WHITE HOUSE

WASHINGTON

October 21, 1991

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAVID DEMAREST
TONY SNOW

FROM: MARY KATE GRANT *MKG*

SUBJECT: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING

I. SUMMARY

On Wednesday, October 23, at 11:45 a.m. in the Roosevelt Room, you will make brief remarks and sign an Executive Order implementing changes in the government's handling of civil suits. You will be addressing the general counsels of the federal departments and agencies.

II. DISCUSSION

The remarks (8 minutes, on cards) briefly outline the reforms and talk about the damage that excessive litigation is causing to the economy. The Vice President, Solicitor General and Attorney General-designate will be present.

Grant/Simon
A:LAWYERS / Draft three
October 21, 1991

**REMARKS: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
11:45 A.M.**

Welcome, everyone. [Acknowledgements]

A little more than two months ago, the Vice President outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, almost 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, the Competitiveness Council, chaired by the Vice President, has recommended extensive and concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery, to end unnecessary and burdensome requests;**
- o **Adoption, in certain areas, of the "loser pays" rule, which should be called the "fairness rule," to weed out frivolous lawsuits;**

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "junk science" on the witness stand.

I've named only a few of our many recommendations. Some of these proposals require federal legislation, which we will transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and are supporting passage of product liability reform legislation. Other proposals require action by the Supreme Court. Today's Executive Order will apply most of these recommendations, where possible, to the federal government. And I'm asking every agency head to do everything possible to fully and effectively implement the Executive Order.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in some states because many obstetricians found it wasn't worth it to practice anymore. I'm talking about beneficial new products that

simply never reach the marketplace at all because of liability concerns.

I'm talking about jobs. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

And I'm talking about inflation and consumer prices. The owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. From the hinderance of new medicines to local bans of firework displays on the Fourth of

July, the fear of outlandish litigation has begun to strangle the American Dream.

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor -- and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President's Competitiveness Council. This is not a partisan issue -- though I know that the special interest groups and the partisan appeals have already begun to fight us. It's a matter of overcoming the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

The Federal Government is the largest single consumer of legal resources. As the client, I'm asking you, the government's top lawyers, to help us change the status quo. The Executive Order will hold you to higher standards than private practitioners. But it will also give us the opportunity to the lead the country toward civil justice reform.

Today we're taking the first step. And now it's my pleasure to ask the Vice President, Bill Barr and Ken Starr to join me up front as I sign this Executive Order.

#

THE WHITE HOUSE

WASHINGTON

October 21, 1991

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAVID DEMAREST
 TONY SNOW

FROM: MARY KATE GRANT *MKG*

SUBJECT: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING

I. SUMMARY

On Wednesday, October 23, at 11:45 a.m. in the Roosevelt Room, you will make brief remarks and sign an Executive Order implementing changes in the government's handling of civil suits. You will be addressing the general counsels of the federal departments and agencies.

II. DISCUSSION

The remarks (8 minutes, on cards) briefly outline the reforms and talk about the damage that excessive litigation is causing to the economy. The Vice President, Solicitor General and Attorney General-designate will be present.

Grant/Simon
A:LAWYERS / Draft three
October 21, 1991

**REMARKS: CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
11:45 A.M.**

Welcome, everyone. [Acknowledgements]

A little more than two months ago, the Vice President outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, almost 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, the Competitiveness Council, chaired by the Vice President, has recommended extensive and concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery**, to end unnecessary and burdensome requests;
- o **Adoption, in certain areas, of the "loser pays" rule**, which should be called the "fairness rule," to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "junk science" on the witness stand.

I've named only a few of our many recommendations. Some of these proposals require federal legislation, which we will transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and are supporting passage of product liability reform legislation. Other proposals require action by the Supreme Court. Today's Executive Order will apply most of these recommendations, where possible, to the federal government. And I'm asking every agency head to do everything possible to fully and effectively implement the Executive Order.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in some states because many obstetricians found it wasn't worth it to practice anymore. I'm talking about beneficial new products that

simply never reach the marketplace at all because of liability concerns.

I'm talking about jobs. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

And I'm talking about inflation and consumer prices. The owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. From the hinderance of new medicines to local bans of firework displays on the Fourth of

July, the fear of outlandish litigation has begun to strangle the American Dream.

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor -- and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President's Competitiveness Council. This is not a partisan issue -- though I know that the special interest groups and the partisan appeals have already begun to fight us. It's a matter of overcoming the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

The Federal Government is the largest single consumer of legal resources. As the client, I'm asking you, the government's top lawyers, to help us change the status quo. The Executive Order will hold you to higher standards than private practitioners. But it will also give us the opportunity to lead the country toward civil justice reform.

Today we're taking the first step. And now it's my pleasure to ask the Vice President, Bill Barr and Ken Starr to join me up front as I sign this Executive Order.

#

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, the fear of outlandish litigation has begun to strangle the American Dream.

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. ^{Comp. Council. That's why I am so justifiably in a VP's shoes} It's not a partisan issue -- ^{but} I know that already the special interest groups and the partisan appeals have begun to fight us. ^{It's a matter of overcoming} ~~It's~~ a matter of ~~fighting~~ the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

General Counsel
[Need to put ~~SC~~ etc on back]

The Federal government is the largest single consumer of legal resources. As the client, I am asking the lawyers to help us take the first step. The ~~you, lawyers to fight for, but to~~ ^{Executive Order} will hold you to higher standards than member private practitioners. We will be the leader, etc etc.

THE WHITE HOUSE

WASHINGTON

October 18, 1991

91 OCT 21 A7:41

MEMORANDUM FOR TONY SNOW

FROM: ROGER B. PORTER *RBP*

SUBJECT: Presidential Remarks: Signing of Executive Order
of Civil Justice Reform

We have reviewed the attached remarks and have a few suggested comments.

The second sentence of first paragraph on page two suggests that the Administration has submitted legislation on product liability reform. This is not accurate. The Administration has expressed its support for legislation offered by Senator Kasten, but we have not submitted any legislation of our own. You might want to change the sentence to read "We've already submitted legislation on medical malpractice reform and are supporting the passage of product liability reform legislation." ✓

The third sentence in the same paragraph claims that state attorneys general and district attorneys have assisted in moving proposals forward at the state level. We are not aware that the National Association of State Attorneys General has supported this legislation and suggest that this be clarified to avoid confusion by stating specific individuals or groups that have expressed support for the legislation. ✓

Finally, the fourth sentence in the same paragraph states that action by "federal committees" is required on other proposals. We are unclear what exactly is meant by "federal committees." Perhaps you could edit this sentence to read "Other proposals require action by the Supreme Court and the Congress," or replace the Congress with the specific federal body that action is required from. ✓

Please let us know if you have any questions or if we may help in any other way.

cc: Phillip D. Brady

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	McBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

21 OCT 17 P7:23

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o Changes in the rules of discovery, to end unnecessary and burdensome requests;
- o Adoption of the English rule, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgements all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT <i>N/C</i>	☒	☐	PETERSMEYER	☐	☐
DARMAN <i>N/C</i>	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	MCBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN <i>N/C</i>	☒	☐
GRAY <i>2607 Gene Sched</i>	☒	☐	KRISTOL <i>1605</i>	☒	☐
<i>disregard</i> HOLIDAY <i>N/C</i>	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

- MASTER -

SEE PORTER MEMO
ATT

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

31 OCT 17 P7:23

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, ~~more than~~ ^{ALMOST (BT)} ^(BT) 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world. (BT) ✓

In order to restore sanity to our civil justice system, ~~a demand~~ ^{the (BT)} ~~working group of the Vice President's Competitiveness Council~~ ^{chaired by the Vice President} has ~~recommended~~ ^{extensive + (BT)} concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include: (Krystal) ✓

- o Changes in the rules of discovery, to end unnecessary and burdensome requests; -- which should be called the "fairness rule" -- (Krystal)
- o Adoption of the ~~English rule~~, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of ^{"junk science" (Kryz)} ~~"hired guns"~~ on the witness stand. ✓

I've named only a few of our ^{many (BT)} recommendations. Some of these proposals require federal legislation, which we ^{will (Kryz)} ~~hope to~~ transmit to the Congress very soon. ^{And (Kry)} We've already submitted legislation on medical malpractice reform and product liability reform. ✓ ^{No Bill (Porter)}

^{(Kry) #} We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and state legislators ^(Kry) ~~A.B.A. members~~ around the country. Other proposals require

action by the Supreme Court and federal committees. ^{And} Today's Executive Order will ~~implement still others. This Order will~~ ^{most (Kry)} apply ~~some~~ of these recommendations, ^{where (Kry)} ~~when possible~~, to the

federal government. ^{And I'm asking every agency head to do everything they can to fully + effectively implement the executive order. (Kryz)}

With all that said, let me get to the heart of the matter.

We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ✓

((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

And I'm talking about that (Kry) ✓
practice anymore. ~~Many times,~~ beneficial new products¹ simply
never reach the marketplace at all because of liability concerns.

I'm talking about jobs. (Kry) ✓
~~(This is also an issue of rising unemployment and business~~
~~foreclosures)~~ We got a letter the other day from an architect in
California named Charles Yaeger. He wrote, "I have many friends
who are going out of business because of fear of lawsuits."

And I'm talking about (Kry) ✓
~~It also affects inflation and consumer prices. --~~ the owner (Kry) ✓
of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us:
"As a business owner myself, the liability insurance is getting
out of hand. The manufacturers could significantly lower their
prices both wholesale and retail, which would stimulate our
economy." One study showed that foreign companies often have
product liability insurance costs that are 50, 80, even 90
percent lower than the rates paid by their counterparts in the
United States.

Maybe other countries don't have this problem because every
other Western democracy has the "loser pays" rule to discourage
senseless lawsuits. Maybe it's because we have nearly three-
quarters of the world's lawyers here in America. Maybe it's
because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new
movie /// but at one point he asks the bad guys if they're going
to beat him up. // You know what they replied? "Hey, this is
the '90s -- we're going to sue you."))

~~— You see the problem everywhere. Every parent who has signed~~
~~a kid up for the football team has seen it ... used to be you~~ ?

delete
(Kry)

That's why I feel so strongly about these recommendations by
Comp. Counsel. That's why I'm so grateful to the VP +
the Vice President. It's not a partisan issue -- but I know that
already the special interest groups and the partisan appeals have
(BT) begun to fight us, -- It's a matter of overcoming the vested
interests and changing the status quo to ensure a better and more
prosperous life for all Americans.

[Need to put General Counsels plz on back] (kry.)

* SEE ATTACHED PAGE (COPY)

→ The Federal Gov. is the largest single consumer of legal resources. As the client, I am asking you, the lawyers to help us take the ~~final~~^{first} step. The Exec. Order will hold you to higher standards than private practitioners. We will be the leader, etc. etc. (Krupp)

(Insert)

What some commentators have called a litigation or "lawyers' tax" is regularly built into the prices of everyday goods. Thirty percent of the cost of items such as household stepladders is directly attributable to this tax. In one notable example, a major drug company increased the cost of its vaccine for DPT from \$2.80 per dose in June, 1986, to over \$11.40 per dose one year later -- an increase of more than 400 percent.

(CCA)

WHITE HOUSE STAFFING MEMORANDUM

91 OCT 18 A10: 51

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	MCBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

OK - a few suggestions.
BT for SR

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

31 OCT 17 P7:23

**REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?**

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended ^{extensive and} concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery**, to end unnecessary and burdensome requests;
- o **Adoption of the English rule**, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our ^{many} recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgements all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

WHITE HOUSE STAFFING MEMORANDUM

91 OCT 18 P4: 49

7692

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	McBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

MEMORANDUM FOR TONY SNOW

October 18, 1991

The NSC staff concurs with the draft presidential remarks.

B. Scowcroft
Brent Scowcroft

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

cc: Phillip D. Brady

RECEIVED

91 OCT 18 A 7: 20

91 OCT 18 A 7: 20

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

31 OCT 17 P7:23

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o Changes in the rules of discovery, to end unnecessary and burdensome requests;
- o Adoption of the English rule, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgements all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

**REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?**

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. **Sadly, we have become the most litigious society in the world.**

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery, to end unnecessary and burdensome requests;**
- o **Adoption of the English rule, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;**

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o And **changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

WHITE HOUSE STAFFING MEMORANDUM

91 OCT 18 P4:39

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	McBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

No comment

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

31 OCT 17 P7:23

REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o Changes in the rules of discovery, to end unnecessary and burdensome requests;
- o Adoption of the English rule, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgments all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

WHITE HOUSE STAFFING MEMORANDUM

91 OCT 18 P5:13

DATE: 10/17/91 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 p.m. Friday 10/18

SUBJECT: PRESIDENTIAL REMARKS: SIGNING OF EXECUTIVE ORDER ON CIVIL JUSTICE
(10/16 Draft two) REFORM/Oct. 23

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	HORNER	☐	☐
SUNUNU	☐	☐	MCCLURE	☒	☐
SCOWCROFT	☒	☐	PETERSMEYER	☐	☐
DARMAN	☒	☐	PORTER	☒	☐
BRADY	☐	☒	ROGICH	☒	☐
BROMLEY	☐	☐	SMITH	☒	☐
CARD	☐	☒	McBRIDE	☐	☒
DEMAREST	☒	☐	SNOW	☐	☒
FITZWATER	☐	☒	BOSKIN	☒	☐
GRAY	☒	☐	KRISTOL	☒	☐
HOLIDAY	☒	☐		☐	☐

REMARKS: Please provide any comments directly to Tony Snow, Rm. 122, x2930, no later than 5:00 p.m. on Friday, 10/18, with a copy to this office. Thanks.

RESPONSE:

Comments from Cabinet Affairs are attached.

Thanks, *EL*

Elizabeth Luttig

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

Grant/Simon
A:LAWYERS
Draft two
October 16, 1991

31 OCT 17 P7:23

**REMARKS: SIGNING OF EXECUTIVE ORDER
ON CIVIL JUSTICE REFORM
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991
TIME?**

[Acknowledgements]

A little more than two months ago, Vice President Quayle outlined the Administration's agenda for civil justice reform before the American Bar Association. ((That speech unleashed a national debate // a flurry of mail here at the White House // and some of the best lawyer jokes I've heard in years.))

But I'm not here today to make an easy hit on lawyers. Frankly, I don't think the problem rests with lawyers -- the problem stems from a system spun out of control. The legal system now costs Americans an estimated 300 billion dollars a year, and in 1989 alone, more than 18 million civil suits were filed in this country -- one for every ten adults. Sadly, we have become the most litigious society in the world.

In order to restore sanity to our civil justice system, a working group of the Vice President's Competitiveness Council has recommended concrete steps that we can take -- starting today -- to get our legal system back on track. These fifty recommendations include:

- o **Changes in the rules of discovery**, to end unnecessary and burdensome requests;
- o **Adoption of the English rule**, or "loser pays" rule, in certain areas, to weed out frivolous lawsuits;

- o **Encouragement of alternative dispute resolution**, so that Americans have more choices than just formal litigation;
- o **Caps on punitive damages**, to end their arbitrary application and outlandish awards;
- o **And changes in the rules on expert evidence**, to end the practice of "hired guns" on the witness stand.

I've named only a few of our recommendations. Some of these proposals require federal legislation, which we hope to transmit to the Congress very soon. We've already submitted legislation on medical malpractice reform and product liability reform. We're moving our proposals forward at the state level, too, with the help of state attorneys general, district attorneys, and A.B.A. members around the country. Other proposals require action by the Supreme Court and federal committees. Today's Executive Order will implement still others. This Order will apply some of these recommendations, when possible, to the federal government.

With all that said, let me get to the heart of the matter. We could discuss compensatory and punitive damages, discovery limits, and reforming summary judgements all day long. ((Unfortunately I am prevented from doing that by the ban on cruel and unusual punishment.)) But that's not really the point. **What's actually at stake here is much more important.**

I'm talking about access to health care and quality of life -- parents having a tough time finding an obstetrician in certain states because many obstetricians found it wasn't worth it to

practice anymore. Many times, beneficial new products simply never reach the marketplace at all because of liability concerns.

This is also an issue of rising unemployment and business foreclosures. We got a letter the other day from an architect in California named Charles Yaeger. He wrote, "I have many friends who are going out of business because of fear of lawsuits."

It also affects inflation and consumer prices. -- the owner of Zaun's Trustworthy Hardware in Iowa, Brad Zaun, wrote to us: "As a business owner myself, the liability insurance is getting out of hand. The manufacturers could significantly lower their prices both wholesale and retail, which would stimulate our economy." One study showed that foreign companies often have product liability insurance costs that are 50, 80, even 90 percent lower than the rates paid by their counterparts in the United States.

Maybe other countries don't have this problem because every other Western democracy has the "loser pays" rule to discourage senseless lawsuits. Maybe it's because we have nearly three-quarters of the world's lawyers here in America. Maybe it's because the pop culture in this country encourages lawsuits.

((For example, I don't know if you've seen Hulk Hogan's new movie /// but at one point he asks the bad guys if they're going to beat him up. // You know what they replied? "Hey, this is the '90s -- we're going to sue you."))

You see the problem everywhere. Every parent who has signed a kid up for the football team has seen it ... used to be you

just bought kids a mouthpiece ... now you sign your life away on liability waivers. Every small business owner who pays liability insurance has seen it ... because he's seen mom-and-pop operations close because the insurance payments and legal fees were too much. ^(see memo attached) From the hinderance of new medicines to local bans of firework displays on the Fourth of July, **the fear of outlandish litigation has begun to strangle the American Dream.**

Americans understand that civil justice reform means growth, competitiveness, and jobs. It also means a return to more civil relations in this country, a return to the days that when a baseball crashed through the window, you called your neighbor and not your lawyer. People of all walks of life -- Republicans, Democrats, businessmen, factory workers, parents, and yes -- lawyers -- want to see changes in our legal system.

That's why I feel so strongly about these recommendations by the Vice President. It's not a partisan issue -- but I know that already the special interest groups and the partisan appeals have begun to fight us -- it's a matter of fighting the vested interests and changing the status quo to ensure a better and more prosperous life for all Americans.

Today we're taking the first step. And now it's my pleasure to sign this Executive Order. # # #

**CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991 \ 11:45 A.M.**

WELCOME, EVERYONE. I'M GRATEFUL TO VICE PRESIDENT QUAYLE FOR HIS HARD WORK ON THIS ISSUE; TO OUR NOMINEE FOR ATTORNEY GENERAL, BILL BARR; AND TO THE SOLICITOR GENERAL, KEN STARR, WHO HEADED THE WORKING GROUP THAT PRODUCED THIS FINE REPORT.

- 2 -

A LITTLE MORE THAN TWO MONTHS AGO, THE VICE PRESIDENT OUTLINED THE ADMINISTRATION'S AGENDA FOR CIVIL JUSTICE REFORM BEFORE THE AMERICAN BAR ASSOCIATION. ((THAT SPEECH UNLEASHED A NATIONAL DEBATE // A FLURRY OF MAIL HERE AT THE WHITE HOUSE /// AND SOME OF THE BEST LAWYER JOKES I'VE HEARD IN YEARS.))

BUT WE'RE NOT HERE TODAY TO MAKE AN EASY HIT ON LAWYERS.

FRANKLY, I DON'T THINK THE PROBLEM RESTS WITH LAWYERS -- THE PROBLEM STEMS FROM A LEGAL SYSTEM SPUN OUT OF CONTROL. SADLY, WE HAVE BECOME THE MOST LITIGIOUS SOCIETY IN THE WORLD.

IN ORDER TO RESTORE SANITY TO OUR CIVIL JUSTICE SYSTEM, THE COMPETITIVENESS COUNCIL, CHAIRED BY THE VICE PRESIDENT, HAS RECOMMENDED EXTENSIVE AND CONCRETE STEPS THAT WE CAN TAKE -- STARTING TODAY -- TO GET OUR LEGAL SYSTEM BACK ON TRACK.

THESE FIFTY RECOMMENDATIONS INCLUDE CHANGES IN THE RULES OF DISCOVERY; ADOPTION, IN CERTAIN AREAS, OF THE "LOSER PAYS" RULE; ENCOURAGEMENT OF ALTERNATIVE DISPUTE RESOLUTION; CAPS ON PUNITIVE DAMAGES; AND CHANGES IN THE RULES ON EXPERT EVIDENCE, TO END THE USE OF "JUNK SCIENCE" ON THE WITNESS STAND.

I'VE NAMED ONLY A FEW OF OUR MANY RECOMMENDATIONS. SOME OF THESE PROPOSALS REQUIRE FEDERAL LEGISLATION, WHICH WE WILL TRANSMIT TO THE CONGRESS VERY SOON.

OTHER PROPOSALS REQUIRE ACTION BY THE SUPREME COURT. TODAY'S EXECUTIVE ORDER WILL APPLY MOST OF THESE RECOMMENDATIONS, WHERE POSSIBLE, TO THE FEDERAL GOVERNMENT. AND I'M ASKING EVERY AGENCY HEAD TO DO EVERYTHING POSSIBLE TO FULLY AND EFFECTIVELY IMPLEMENT THE EXECUTIVE ORDER.

WITH ALL THAT SAID, LET ME GET TO THE HEART OF THE MATTER. CIVIL JUSTICE REFORM IS VITAL TO AMERICA'S WELL-BEING.

I'M TALKING ABOUT ACCESS TO HEALTH CARE AND QUALITY OF LIFE -- PARENTS ARE HAVING A TOUGH TIME FINDING AN OBSTETRICIAN IN SOME STATES BECAUSE MANY OBSTETRICIANS FOUND IT WASN'T WORTH IT TO PRACTICE ANYMORE. I'M TALKING ABOUT BENEFICIAL NEW PRODUCTS THAT NEVER REACH THE MARKETPLACE AT ALL BECAUSE OF LIABILITY CONCERNS.

I'M TALKING ABOUT JOBS. WE GOT A LETTER THE OTHER DAY FROM AN ARCHITECT IN CALIFORNIA NAMED CHARLES YAEGER. HE WROTE, "I HAVE MANY FRIENDS WHO ARE GOING OUT OF BUSINESS BECAUSE OF FEAR OF LAWSUITS."

AND I'M TALKING ABOUT INFLATION AND CONSUMER PRICES. THE OWNER OF ZAUN'S TRUSTWORTHY HARDWARE IN IOWA, BRAD ZAUN, WROTE TO US: "AS A BUSINESS OWNER MYSELF, THE LIABILITY INSURANCE IS GETTING OUT OF HAND. THE MANUFACTURERS COULD SIGNIFICANTLY LOWER THEIR PRICES BOTH WHOLESALE AND RETAIL, WHICH WOULD STIMULATE OUR ECONOMY."

MAYBE OTHER COUNTRIES DON'T HAVE THIS PROBLEM BECAUSE EVERY OTHER WESTERN DEMOCRACY HAS THE "LOSER PAYS" RULE TO DISCOURAGE SENSELESS LAWSUITS.

MAYBE IT'S BECAUSE WE HAVE MOST OF THE WORLD'S LAWYERS HERE IN AMERICA. MAYBE IT'S BECAUSE THE POP CULTURE IN THIS COUNTRY ENCOURAGES LAWSUITS.

((FOR EXAMPLE, I DON'T KNOW IF YOU'VE SEEN HULK HOGAN'S NEW MOVIE /// BUT AT ONE POINT HE ASKS THE BAD GUYS IF THEY'RE GOING TO BEAT HIM UP. // YOU KNOW WHAT THEY REPLIED? "HEY, THIS IS THE '90S -- WE'RE GOING TO SUE YOU."))

YOU SEE THE PROBLEM EVERYWHERE. FROM THE HINDERANCE OF NEW MEDICINES TO LOCAL BANS OF FIREWORK DISPLAYS ON THE FOURTH OF JULY, THE FEAR OF OUTLANDISH LITIGATION HAS BEGUN TO STRANGLE THE AMERICAN DREAM.

AMERICANS UNDERSTAND THAT CIVIL JUSTICE REFORM MEANS GROWTH, COMPETITIVENESS, AND JOBS. THAT'S WHY I FEEL SO STRONGLY ABOUT THESE RECOMMENDATIONS BY THE VICE PRESIDENT'S COMPETITIVENESS COUNCIL.

THIS IS NOT A PARTISAN ISSUE -- IT'S A MATTER OF OVERCOMING THE VESTED INTERESTS AND CHANGING THE STATUS QUO TO ENSURE A BETTER AND MORE PROSPEROUS LIFE FOR ALL AMERICANS.

THE FEDERAL GOVERNMENT IS THE LARGEST SINGLE CONSUMER OF LEGAL RESOURCES. AS THE CLIENT, I'M ASKING YOU, THE GOVERNMENT'S TOP LAWYERS, TO HELP US CHANGE THE STATUS QUO. THE EXECUTIVE ORDER WILL HOLD YOU TO HIGHER STANDARDS THAN PRIVATE PRACTITIONERS.

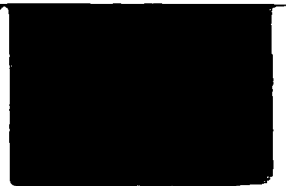
BUT IT WILL ALSO GIVE US THE OPPORTUNITY TO LEAD THE
COUNTRY -- BY EXAMPLE -- TOWARD CIVIL JUSTICE REFORM.

TODAY WE'RE TAKING THE FIRST STEP. AND NOW IT'S MY
PLEASURE TO ASK BILL BARR AND KEN STARR TO JOIN US UP
FRONT AS I SIGN THIS EXECUTIVE ORDER.

#

#

#



**CIVIL JUSTICE REFORM EXECUTIVE ORDER SIGNING
THE ROOSEVELT ROOM
WEDNESDAY, OCTOBER 23, 1991 \ 11:45 A.M.**

WELCOME, EVERYONE. I'M GRATEFUL TO VICE PRESIDENT QUAYLE FOR HIS HARD WORK ON THIS ISSUE; TO OUR NOMINEE FOR ATTORNEY GENERAL, BILL BARR; AND TO THE SOLICITOR GENERAL, KEN STARR, WHO HEADED THE WORKING GROUP THAT PRODUCED THIS FINE REPORT.

- 2 -

A LITTLE MORE THAN TWO MONTHS AGO, THE VICE PRESIDENT OUTLINED THE ADMINISTRATION'S AGENDA FOR CIVIL JUSTICE REFORM BEFORE THE AMERICAN BAR ASSOCIATION. ((THAT SPEECH UNLEASHED A NATIONAL DEBATE // A FLURRY OF MAIL HERE AT THE WHITE HOUSE /// AND SOME OF THE BEST LAWYER JOKES I'VE HEARD IN YEARS.))

BUT WE'RE NOT HERE TODAY TO MAKE AN EASY HIT ON LAWYERS.

FRANKLY, I DON'T THINK THE PROBLEM RESTS WITH LAWYERS -- THE PROBLEM STEMS FROM A LEGAL SYSTEM SPUN OUT OF CONTROL. SADLY, WE HAVE BECOME THE MOST LITIGIOUS SOCIETY IN THE WORLD.

IN ORDER TO RESTORE SANITY TO OUR CIVIL JUSTICE SYSTEM, THE COMPETITIVENESS COUNCIL, CHAIRED BY THE VICE PRESIDENT, HAS RECOMMENDED EXTENSIVE AND CONCRETE STEPS THAT WE CAN TAKE -- STARTING TODAY -- TO GET OUR LEGAL SYSTEM BACK ON TRACK.

THESE FIFTY RECOMMENDATIONS INCLUDE CHANGES IN THE RULES OF DISCOVERY; ADOPTION, IN CERTAIN AREAS, OF THE "LOSER PAYS" RULE; ENCOURAGEMENT OF ALTERNATIVE DISPUTE RESOLUTION; CAPS ON PUNITIVE DAMAGES; AND CHANGES IN THE RULES ON EXPERT EVIDENCE, TO END THE USE OF "JUNK SCIENCE" ON THE WITNESS STAND.

I'VE NAMED ONLY A FEW OF OUR MANY RECOMMENDATIONS. SOME OF THESE PROPOSALS REQUIRE FEDERAL LEGISLATION, WHICH WE WILL TRANSMIT TO THE CONGRESS VERY SOON.

OTHER PROPOSALS REQUIRE ACTION BY THE SUPREME COURT. TODAY'S EXECUTIVE ORDER WILL APPLY MOST OF THESE RECOMMENDATIONS, WHERE POSSIBLE, TO THE FEDERAL GOVERNMENT. AND I'M ASKING EVERY AGENCY HEAD TO DO EVERYTHING POSSIBLE TO FULLY AND EFFECTIVELY IMPLEMENT THE EXECUTIVE ORDER.

WITH ALL THAT SAID, LET ME GET TO THE HEART OF THE MATTER. CIVIL JUSTICE REFORM IS VITAL TO AMERICA'S WELL-BEING.

I'M TALKING ABOUT ACCESS TO HEALTH CARE AND QUALITY OF LIFE -- PARENTS ARE HAVING A TOUGH TIME FINDING AN OBSTETRICIAN IN SOME STATES BECAUSE MANY OBSTETRICIANS FOUND IT WASN'T WORTH IT TO PRACTICE ANYMORE. I'M TALKING ABOUT BENEFICIAL NEW PRODUCTS THAT NEVER REACH THE MARKETPLACE AT ALL BECAUSE OF LIABILITY CONCERNS.

I'M TALKING ABOUT JOBS. WE GOT A LETTER THE OTHER DAY FROM AN ARCHITECT IN CALIFORNIA NAMED CHARLES YAEGER. HE WROTE, "I HAVE MANY FRIENDS WHO ARE GOING OUT OF BUSINESS BECAUSE OF FEAR OF LAWSUITS."

AND I'M TALKING ABOUT INFLATION AND CONSUMER PRICES. THE OWNER OF ZAUN'S TRUSTWORTHY HARDWARE IN IOWA, BRAD ZAUN, WROTE TO US: "AS A BUSINESS OWNER MYSELF, THE LIABILITY INSURANCE IS GETTING OUT OF HAND. THE MANUFACTURERS COULD SIGNIFICANTLY LOWER THEIR PRICES BOTH WHOLESALE AND RETAIL, WHICH WOULD STIMULATE OUR ECONOMY."

MAYBE OTHER COUNTRIES DON'T HAVE THIS PROBLEM BECAUSE EVERY OTHER WESTERN DEMOCRACY HAS THE "LOSER PAYS" RULE TO DISCOURAGE SENSELESS LAWSUITS.

MAYBE IT'S BECAUSE WE HAVE MOST OF THE WORLD'S LAWYERS HERE IN AMERICA. MAYBE IT'S BECAUSE THE POP CULTURE IN THIS COUNTRY ENCOURAGES LAWSUITS.

((FOR EXAMPLE, I DON'T KNOW IF YOU'VE SEEN HULK HOGAN'S NEW MOVIE /// BUT AT ONE POINT HE ASKS THE BAD GUYS IF THEY'RE GOING TO BEAT HIM UP. // YOU KNOW WHAT THEY REPLIED? "HEY, THIS IS THE '90S -- WE'RE GOING TO SUE YOU."))

YOU SEE THE PROBLEM EVERYWHERE. FROM THE HINDERANCE OF NEW MEDICINES TO LOCAL BANS OF FIREWORK DISPLAYS ON THE FOURTH OF JULY, THE FEAR OF OUTLANDISH LITIGATION HAS BEGUN TO STRANGLE THE AMERICAN DREAM.

AMERICANS UNDERSTAND THAT CIVIL JUSTICE REFORM MEANS GROWTH, COMPETITIVENESS, AND JOBS. THAT'S WHY I FEEL SO STRONGLY ABOUT THESE RECOMMENDATIONS BY THE VICE PRESIDENT'S COMPETITIVENESS COUNCIL.

THIS IS NOT A PARTISAN ISSUE -- IT'S A MATTER OF OVERCOMING THE VESTED INTERESTS AND CHANGING THE STATUS QUO TO ENSURE A BETTER AND MORE PROSPEROUS LIFE FOR ALL AMERICANS.

THE FEDERAL GOVERNMENT IS THE LARGEST SINGLE CONSUMER OF LEGAL RESOURCES. AS THE CLIENT, I'M ASKING YOU, THE GOVERNMENT'S TOP LAWYERS, TO HELP US CHANGE THE STATUS QUO. THE EXECUTIVE ORDER WILL HOLD YOU TO HIGHER STANDARDS THAN PRIVATE PRACTITIONERS.

BUT IT WILL ALSO GIVE US THE OPPORTUNITY TO LEAD THE COUNTRY -- BY EXAMPLE -- TOWARD CIVIL JUSTICE REFORM.

TODAY WE'RE TAKING THE FIRST STEP. AND NOW IT'S MY PLEASURE TO ASK BILL BARR AND KEN STARR TO JOIN US UP FRONT AS I SIGN THIS EXECUTIVE ORDER.

#

#

#

