



Alliance of American Insurers  
1501 Woodfield Road, Suite 400 West  
Schaumburg, Illinois 60173-4980  
Tel: (312) 330-8500  
Fax: (312) 330-8602

Statement by  
Franklin W. Nutter, President  
Alliance of American Insurers

In the future, legal scholars and the public should be able to look back on the report of the Brookings Institute entitled "Justice For All" as the springboard for meaningful civil justice reforms. By drawing upon the creative solutions that state courts and private disputants are employing, the federal system can take a leadership role in revitalizing the courts as viable forums for dispute resolution.

We applaud the Institute's task force for putting the interests of the public above those of any special interest. The Alliance of American Insurers is committed to work with the Congress and federal courts in achieving the report's recommendations.

SP/10-20-89/LEK/2901P

**STATEMENT OF JULIUS CHAMBERS**

Director Counsel of the NAACP

Legal Defense & Educational Fund, Inc.

**Justice for All Reducing Costs and Delay in  
Civil Litigation**

**Report of a Task Force**

Brookings Institution, 1989

The American civil justice and litigation system has served to establish civil rights, breakdown the barriers of segregation, and open equal opportunity. It is a unique system which has evolved to aid in nonviolent social change and to protect the rights of minorities.

When the civil justice system fails to meet its potential whether due to delay, inefficiency or lack of sympathy to the protection of civil rights, the effect on minorities is particularly severe. However, often proposals to "cure" problems such as delay or overcrowding would serve only to exacerbate the problems of minorities or the poor because they fail to consider adequately the importance of equal access to the judicial system.

The Task Force established by the Foundation for Change, Inc. considered carefully problems of delay and inefficiency in the system and the need for fair access to the courts for all Americans. Accordingly, Justice for All is an important contribution. The report properly challenges the civil justice system, Congress, lawyers and litigants to make changes to insure the efficiency and effectiveness of this critically important part of the American form of government. At the Legal Defense Fund we shall review the proposals closely; we appreciate the work of the Task Force and the opportunity afforded to Legal Defense Fund to participate in its deliberation by the inclusion on the Task Force of Barry Goldstein, former Director of the Washington Office of the NAACP Legal Defense & Educational Fund, Inc.



|||||| NATIONAL ASSOCIATION OF MANUFACTURERS |||

# NEWS

89-219

FOR IMMEDIATE RELEASE

NEWS CONTACTS:

ANDY SMART (202) 637-3090

PHYLLIS EISEN (202) 637-3135

## NAM APPLAUDS SEN. BIDEN AND FOUNDATION FOR CHANGE FOR EXPLORING WAYS TO REDUCE COSTS AND DELAYS OF AMERICA'S JUDICIAL SYSTEM

WASHINGTON D.C., October 25, 1989 -- Alexander Trowbridge president of the National Association of Manufacturers today praised the efforts of Sen. Biden Joseph Biden, (D-DE), and the Foundation For Change for their examination of ways to end high costs and undue delays in handling America's civil court cases.

"We congratulate Senator Joseph Biden and the Foundation For Change for their extraordinary work in examining the morass of today's legal system. This is an important step forward in challenging America's litigation nightmare.

"We applaud this effort. Combined with federal product liability reform it will go a long way toward addressing this crisis that has put American manufacturing and the consumer at a competitive disadvantage and made everyone except those in the legal profession a loser."

According to Trowbridge liability reform remains a top priority for U.S. manufacturers and the NAM will continue lobbying efforts until Congress approves federal product liability reform.

- NAM -



## Consumer Federation of America

CFA ENDORSES CIVIL JUSTICE TASK FORCE REPORT,  
URGES CONGRESS TO IMPLEMENT PLAN  
TO REDUCE LITIGATION COSTS AND DELAY

Washington, D.C. -- Today the Consumer Federation of America (CFA) joined with a broad array of interest groups and legal scholars to endorse the civil justice reforms proposed by the "Justice For All" Task Force, and to encourage Congress and the legal community to implement these reforms.

"This is the only reform proposal presented to the Congress that would clean up our judicial system without denying the public essential legal rights," said Gene Kimmelman, CFA's Legislative Director and a member of the task force. "If Congress and the legal community implement the task force's civil justice reforms, legal costs will fall significantly and justice will be expedited in federal courts," Kimmelman added.

The task force reached the first consensus among interest groups and the legal community on how to improve the operation of our civil justice system. Task force recommendations to speed up pre-trial preparation for litigation, encourage alternative dispute resolution, and increase case management by federal judges would enhance just resolution of legal disputes faster and more efficiently than currently occurs. "CFA thanks Senator Biden for initiating the task force and urges him, as Chairman of the Senate Judiciary Committee, to move legislation that would implement the task force's reform proposals," Kimmelman concluded.

# # # # #

The Consumer Federation of America is a federation of 240 organizations representing over 50 million Americans. The purpose of the federation is to represent consumer interests before Congress and the Federal agencies.



# AMERICAN CORPORATE COUNSEL ASSOCIATION

1225 Connecticut Avenue, N.W. • Suite 302 • Washington, D.C. 20036 • (202) 296-4522 • Fax (202) 331-7454

**FOR IMMEDIATE RELEASE**  
**DATE: OCTOBER 23, 1989**

**CONTACT: Susan Hackett**  
**(202) 296-4522**

Frank H. McFadden, Chairman of the Board of the American Corporate Counsel Association, today made the following statement concerning the report of the Brookings Institution's Task Force on Civil Justice Reform, Justice for All:

The costs of litigation are of great concern to the American Corporate Counsel Association and the companies its members represent. According to an article published this month in INC. magazine, more than 16 million civil cases were filed in state courts in 1987, with an additional 239,000 in federal courts, representing one case per 15 people in the United States. This, according to INC., translates into an estimated cost of \$20 billion per year to U.S. companies . . . just to cover the litigation process and not including the costs of the settlements and judgments.

The Brookings Task Force on Civil Justice Reform in its report, Justice for All, recommends a number of procedural reforms designed to cut some of the unnecessary costs of litigating. As a member of that group, and as Chairman of the American Corporate Counsel Association, I heartily endorse those proposals and hope that the Congress and the courts will make every effort to implement those recommendations to create a better system of justice for the citizens of this country.

The American Corporate Counsel Association, established in 1982, is a professional association for attorneys employed in corporations, association and other private sector organizations. The association currently has more than 7600 members, 15 standing committees, and 33 local chapters nationwide. For more information on ACCA, its programs or its publications, please contact Susan Hackett.

Frank H. McFadden  
Blount, Inc.  
Chairman

Stephen A. Bokat  
Chamber of Commerce of the  
United States of America  
Vice Chairman

Sara Holtz  
The Clorox Company  
Secretary

Donald K. Smith  
GEICO Corporation  
Treasurer

Board of Directors: • William J. Bogaard • Kenneth C. Bornholdt • S.T. Jack Brigham, III • David S. Browning • Gray Castle • John E. Clute • Richard L. Fischer • Brian D. Forrow • J. Edward Fowler • George S. Frazza • Ronald E. Goodgame • Daniel S. Hapke, Jr. • David Hughes • Walter W. Kocher • Norman Krivosha • Ray J. Kulla • Carl D. Ligio • Frank H. Menaker • Stephen B. Middlebrook • Richard S. Paul • Susan L. Paulus • Lawrence A. Salibra, II • Edward A. Schwartz • Charles H. Stamm • Neal S. Sutton • Ronald J. Thomas • Robert I. Townsend, Jr. • Donald P. Walsh • John R. Worthington • Ronald L. Zemlicka • Peter D. Zeughauser • Bill J. Zimmerman • Guy A. Zoghby • John Sciamanda, Ex Officio



**Law and Public Affairs Division**

151 Farmington Avenue  
Hartford, CT 06156

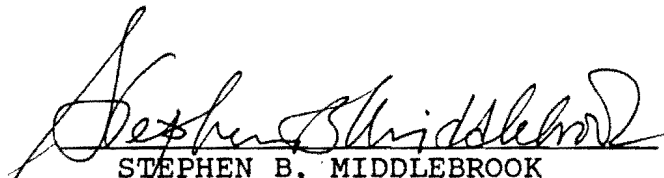
Stephen B. Middlebrook  
Senior Vice President and General Counsel  
(203) 273-3719

The costs of litigating are rising at a disturbing rate. Data from A.M. Best indicate that the dollars spent by commercial insurers over the last decade in the defense of liability actions against insureds (not including auto and medical malpractice) increased at an even faster rate than the dollars spent on the actual losses. The losses over that time period tripled. The defense expenses quadrupled! (See attachment.)

Are the costs of litigating reasonable? The corporate counsel of this country's largest companies appear to think not. A substantial majority indicated in a recent Louis Harris poll, commissioned by the Foundation for Change, that they find them excessive...particularly relative to "high stakes" cases such as product liability, malpractice or complex litigation (82%), typical contract disputes (70%), and "mass latent injury" torts (66%).

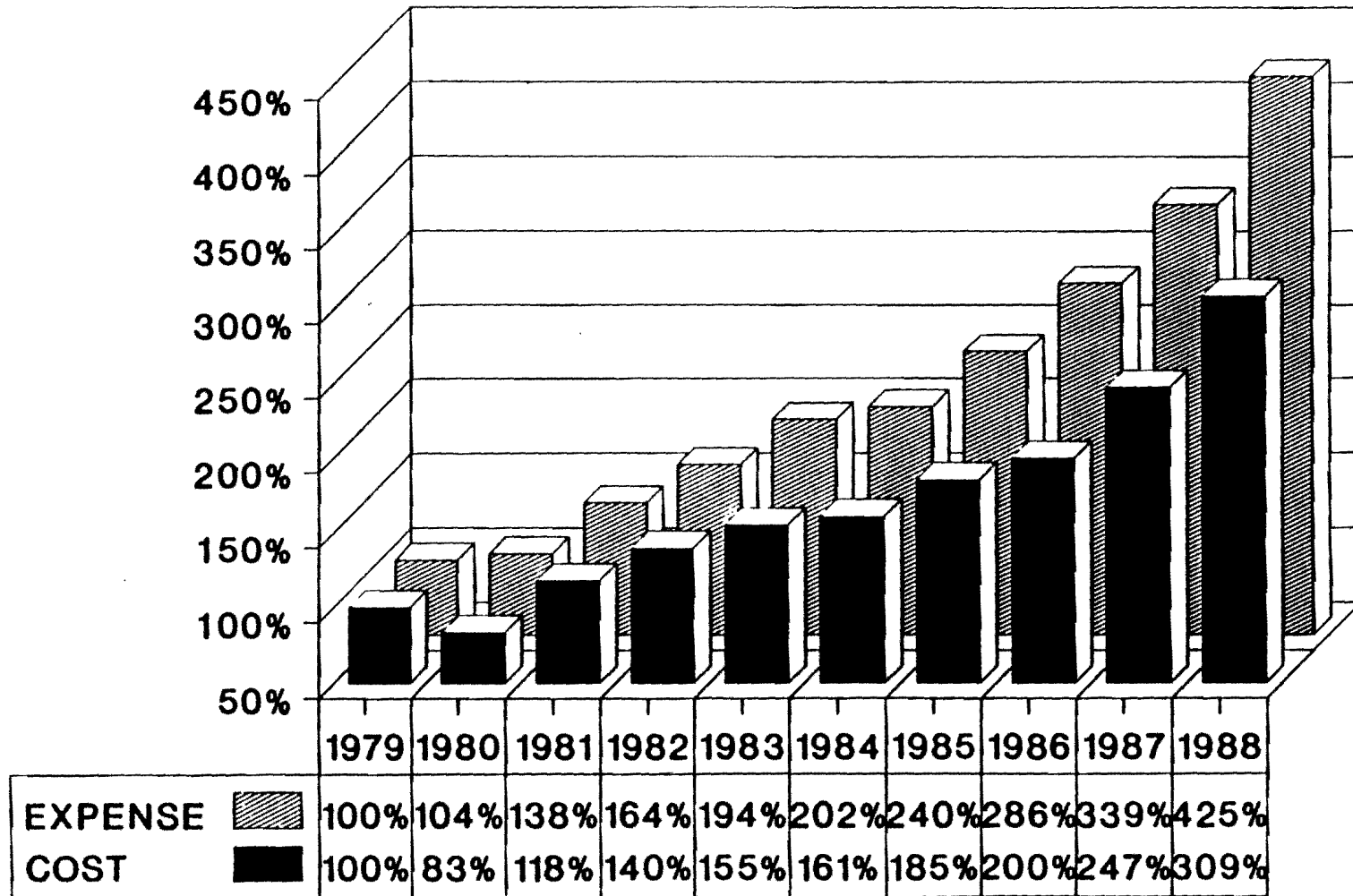
That same poll indicates that concern over the reasonableness of the costs of litigating extends beyond the business community. Judges, defense lawyers, plaintiffs' lawyers and public interest litigators to varying degrees share the view.

The Brookings Task Force on Civil Justice Reform has met the challenge of identifying some of the most repairable causes of these excessive costs. The Task Force report recommends changes in the litigation process that are practical and that have the potential to serve the interests of defendants, plaintiffs, and the courts themselves.

  
STEPHEN B. MIDDLEBROOK

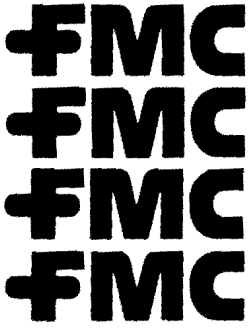
October 25, 1989  
DATE

**CUMULATIVE GROWTH IN CLAIM COST & EXPENSE (\*) SINCE 1979**  
**TYPE OF BUSINESS: OTHER LIABILITY (EXCL. MED. MALPRACTICE)**



**\* ONLY INCLUDES EXPENSES SPECIFIC TO THE CLAIM (ALLOCATED)**  
**SOURCE: A M BEST AGGREGATES & AVERAGES INSURANCE INDUSTRY**

EXPENSE = Fees paid to lawyers and experts.  
 COST = Settlement and verdict amounts.



## News Release

For Release

October 25, 1989

Contact

Pat Brozowski  
312/861-6104

Patrick J. Head  
Vice President - General Counsel  
FMC Corporation  
Statement on Civil Litigation Proposal

The civil litigation report released today by Senators Biden and Cohen takes a major step toward reform of civil litigation in the United States.

The proposal results from months of deliberation by lawyers representing such widely varied groups as business, consumers, academics, major law firms and trial lawyers.

Once implemented, this proposal will profoundly affect civil litigation within the U.S. federal court system, most notably shortening the discovery process and allowing more timely scheduling of trials.

Over a period of years, we hope this proposal will have a similar effect on our state court system.



# NATIONAL WOMEN'S LAW CENTER

FOR IMMEDIATE RELEASE  
October 25, 1989

Contact: Laura Epstein  
(202) 328-5160

Statement by Marcia Greenberger  
Managing Attorney, National Women's Law Center

As a member of the Brookings Institution Task Force on Civil Justice Reform, I join my colleagues in applauding the release of the Task Force's report, "Justice for All; Reducing Costs and Delay in Civil Litigation."

Our nation's legal system increasingly subjects our citizens to exorbitant costs and protracted delays. There is a growing danger that unless we control the length of time and expense involved when turning to the courts, our justice system will burden everyone and serve no one.

The Task Force's report is an effort to avert such a danger. It suggests a series of steps which could facilitate the more efficient operation of the federal civil courts.

The Task Force report responds to widespread frustrations with our system and underscores the importance of its improvement. The report is particularly significant because members of the Task Force represent a broad range of perspectives and backgrounds and all have reached consensus on ways to secure progress. I hope the Task Force report will provide a catalyst for an examination of the problem and a blueprint for the necessary changes.

###



Whittaker Corporation  
10880 Wilshire Boulevard  
Los Angeles, CA 90024-4163  
213/475-9411

Edward R. Muller  
Vice President  
and Chief Administrative Officer

**STATEMENT OF  
EDWARD R. MULLER  
GENERAL COUNSEL, WHITTAKER CORPORATION**

The high costs associated with civil litigation are wasteful, both for litigants and for our society as a whole. We need to arrive at the end of the process without having spent so much to get there.

Reforms must be enacted in order to reduce these costs. Most corporate counsel recognize that procedural reforms designed to streamline the litigation process can substantially reduce the costs. For example, the Harris survey revealed that corporate counsel identify discovery abuse as the most important cause of high litigation costs and that discovery costs account for 60% of total costs in a typical federal court case. Reform of the discovery process is an obvious goal that should lead to reduced costs for all parties. 90% of the corporate counsel Harris surveyed think that if changes were made to the discovery process, litigation costs would be "significantly reduced."

For those reasons, Whittaker Corporation is pleased to have helped underwrite the Brookings Institution Task Force on Civil Justice Reform and to endorse its recommendations. We urge the Congress to move quickly in its consideration of the proposed reforms.

# NEWS

FOR FURTHER INFORMATION, CONTACT:

Georgiana Smith  
Public Affairs  
(202) 828-7100

RELEASE DATE: Immediate

**Robert E. Vagley, president of the American Insurance Association, issued the following statement in support of the Brookings Working Group Report on Civil Justice Reform.**

As one of the nation's largest consumers of legal services, property/casualty insurance companies have a direct interest in controlling the sky-rocketing legal costs that characterize our civil justice system. In 1988, for example, the p/c insurance industry incurred over \$23 billion in allocated loss adjustment expenses. Much of this was attributable to the legal costs in suits where insurers were party litigants, actions in which insurers defended the interests of their insureds, and actions where insurers pursued the rights of their policyholders.

Insurers, however, are not alone in their desire to curb excessive transaction costs, and to improve the performance of the civil justice system. This is a goal that is shared by other consumers of legal services, whether plaintiffs or defendants, as well as by the federal and state judiciary.

The report issued today by the Brookings Working Group on Civil Justice Reform makes significant progress in achieving our

(more)

shared goals. It attacks some of the major sources of run-away legal costs, including excessive or abusive discovery, the need for active judicial case management, and the need to eliminate ambiguities in legislation that give rise to needless litigation. The recommendations contained in the report represent a careful compromise between all of the affected interests -- plaintiff and defendant; client and attorney.

The American Insurance Association commends the foresight of Senate Judiciary Chairman Joseph Biden in identifying the need to address the costs of civil litigation, and in establishing an effective mechanism for doing so. We hope that the Brookings Report's recommendations will speedily be enacted into law, so that the Federal Rules of Civil Procedure will better fulfill the mandate of the first of those rules that they facilitate the "just, speedy, and inexpensive determination of every action."

The American Insurance Association is a trade organization representing 204 major companies that provide all lines of property/casualty insurance. Headquartered in Washington, DC, the association has representatives in every state.



# ELI NEWS

Environmental Law Institute

1616 P St. NW • Washington, DC 20036 • (202) 328-5150

**For more information:**  
Lori Wainright, 202/328-5150

## MEDIA STATEMENT

of  
**John Pendergrass**  
**Senior Attorney**  
**Environmental Law Institute**

Brookings Working Group on Civil Justice Reform  
October 25, 1989

The findings of the Civil Justice Reform Task Force demonstrate the urgent need for dramatic changes in the civil legal system to reduce transaction costs and delays. The importance of our report, however, is that it offers practical advice for all major players in the process--Congress, judges and clients--to reduce costly and time-consuming litigation.

ELI is proud to have participated in the work of this distinguished group of legal experts. At the request of U.S. Senator Joseph Biden, Jr., the Chairman of the Senate Judiciary Committee, the Brookings Institution convened the Task Force consisting of leading litigators and legal experts from all sectors of society. The Task Force followed a consensus-seeking approach in developing its report, "Justice for All: Reducing Costs and Delay in Civil Litigation." The Task Force found common ground throughout a broad spectrum of the litigation bar and developed recommendations that will improve the system without infringing the rights of any single group of litigants.

From long experience with the players and issues, ELI knows first-hand the frustration of parties involved in legal environmental disputes. Environmental cases suffer higher costs and delays than other types of matters because, among other reasons, they often involve novel statutory concepts, making them vulnerable to constitutional challenges.

But, as the report points out, there is much that can be done to improve the situation. For example, the Task Force makes the following recommendations:

- Judges need to set firm trial dates and discovery deadlines. Currently, few trial dates are established nor are timeframes set for discovery. This is particularly true for environmental cases, where the complex scientific questions create an extensive fact-finding discovery process. Considerable delays, particularly for cases that may involve hundreds of defendants as Superfund litigation does or hundreds of plaintiffs as do toxic tort cases, are likely to continue in environmental cases unless firm deadlines are set.

**CONTINUED**

- Congress should draft laws that are less ambiguous and correct those ambiguities that were written into the law. There are numerous instances in environmental statutes in which Congress failed to deal with significant procedural issues. Unnecessary litigation has been the result. For example, the absence of citizen suit provisions in the National Environmental Policy Act led to extensive litigation which Congress could easily have avoided.

\* \* \* \* \*

John Pendergrass is a Senior Attorney at ELI working in the areas of hazardous waste, Superfund, administrative and regulatory law, surface mining and groundwater issues. Pendergrass, formerly Associate Professor of Law at Illinois Institute of Technology, Chicago-Kent School of Law, is a member of the American Bar Association and has written extensively on environmental law.

The Environmental Law Institute is a national center for education and training on environmental and natural resources law research, and policy headquartered in Washington, DC. The Institute does not litigate nor lobby but works with all parties through research, education, and dialogue to find effective solutions to complex legal and policy questions.



For Immediate Release

ROUNDTABLE PRAISES LITIGATION PROPOSAL

Washington, D.C., October 25--Critically needed reform of the federal civil justice system could be initiated through implementation of key proposals of a report released today by The Brookings Institution and The Foundation for Change, Inc., said Robert H. Malott, Chairman and CEO of FMC Corporation and Chairman of The Business Roundtable's Tort Policy Task Force.

"The Roundtable strongly commends this report," Mr. Malott said, "and urges Congress to act on its recommendations. The challenge for this nation's litigious society is our ability to compete internationally. Our legal system is the most costly in the world, and every consumer and business in our country is sharing in this ever mounting expense."

The report, supported by individual companies and associations, focuses on reducing bloated court dockets and lessening litigious confrontation, and reflects months of deliberation by lawyers representing business, consumers, academics, major law firms and trial lawyers.

The Business Roundtable is an association of 200 major corporations represented by their chief executive officers who focus and act on public issues.

# # #

Contact: Richard W. Anthony, The Business Roundtable  
(212) 682-6370

Pat Brozowski, FMC Corporation  
(312) 861-6104