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Whose side are you on, Mr. President?

By HELEN THOMAS

THE Bush administration has it in for trial lawyers and is planning a big push for "tort reform."

The public should be wary of this new attempt to curtail consumer protection. And I hope Congress will slam the brakes on this White House maneuver to trample on the rights of citizens who seek recourse from doctors for malpractice and from big corporations for defective products. The administration has co-opted the word "reform" to roll back progress and promote its goals of weakening government restraints in a variety of areas. It's noteworthy that the administration has never pursued the corporate chieftains whose greed stunned the nation last year with the same energy that it goes after lawyers who are fighting for the consumer.

"Reform" implies intent to make things better and to correct defects and abuses. But buyers, beware. This so-called reform is double speak -- a euphemism to try to block private suits by trial lawyers in behalf of consumers.

Egged on by many congressional Republicans, the administration wants to put a \$250,000 cap on malpractice awards for "pain and suffering."

It follows a speech President Bush made last July 24 when he claimed that "the cause of the medical liability crisis is a badly broken system of litigation that serves the interest of specialized trial lawyers, not patients."

Medical doctors are especially happy over the elevation of Sen. Bill Frist, R-Tenn., a surgeon, to Senate Republican leader. Frist has championed capping malpractice awards. After he was elected to lead his fellow GOP senators, Frist was praised by Donald Palmisano, president-elect of the American Medical Association.

"It's encouraging to us that many issues (Frist) has championed are our top priorities," said Palmisano. He said the AMA's top issue is the \$250,000 liability cap.

Frist also is the author of a provision in the Homeland Security bill providing liability relief to the makers of Thimerosal, a mercury-based preservative that recently has been added to various childhood vaccines. The provision is applicable even to pending cases and is expected to result in the dismissal of numerous ongoing cases alleging that Thimerosal has caused autism in children.

In Bush's eyes, the bogeymen, of course, are those trial lawyers.

Trial lawyers are used to being demonized and they are a favorite political target of conservatives.

When Bush was governor of Texas, he led a crusade to make the state's legal system less helpful to consumers. He pushed through legislation that capped punitive damages, limited class actions to federal courts and made it easier for judges to impose sanctions on plaintiffs who filed so-called "frivolous" lawsuits.

Let's have more of that "frivolity." That is actually a misnomer because some of those lawsuits led to dramatic safety improvements, forced on corporations through jury verdicts. Nothing gets their attention like writing a big check to an injured customer.

The record is replete with tragic cases that produced verdicts and precedents that have saved lives and prevented others from suffering.

Consider some of these lessons in recent years:

- When women using super-absorbent tampons were dying from toxic shock syndrome, the manufacturer -- Playtex -- disregarded studies that showed tampons were at fault. It took a \$10 million verdict to convince Playtex it would be smart to remove the tampons from the market.
- Eli Lilly was selling an arthritis pain-relief drug whose side effects included a fatal kidney-liver ailment. It took a \$6 million jury verdict against the drug company to persuade it to stop selling the medicine.
- Another drug maker -- Johnson & Johnson -- knew that Tylenol turned poisonous when mixed with alcohol but the company did not put warnings on its bottles until a jury socked it with a \$8.8 million judgment.

There are two ways of enforcing consumer protections. One is through government intervention. That's the job of agencies like the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the Securities and Exchange Commission, the Labor Department, the National Highway Traffic Safety Administration, the Federal Trade Commission, the Equal Employment Opportunity Commission, the Federal Aviation Administration and a host of others and their state and local counterparts.

The second way to enforce consumer rights is the private lawsuit. Bush's war on the trial lawyers can only please those from the consumer-be-damned school of corporate wrongdoing. In President Bush's "compassionate conservatism," just whom does he feel compassion for?

I fear I know the answer.

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The right to a jury trial is more important than the right to vote - Thomas Jefferson