



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

Dec. 17, 2003

Mark Whitaker, Editor
Newsweek
The Washington Post Co.
251 West 57th St.
New York, NY 10019-1894

Dear Mr. Whitaker:

Newsweek has done a disservice to both its readers and the public by publishing a seriously flawed and inflammatory cover story ("Lawsuit Hell," Dec. 15) that caricatures our world-renowned legal system with misleading anecdotes, exaggerations and false assertions obviously supplied by corporate opponents of an accountable liability system.

Your reporters and editors apparently have bought into the myths created by a well-funded, highly orchestrated campaign by corporate America to denigrate the civil justice system – virtually the only venue in our democracy where people without money or political power can seek justice for their grievances. The piece by Stuart Taylor Jr. and Evan Thomas was one of the most flagrantly slanted articles on this subject that we have ever seen published by a respected, supposedly balanced news magazine or newspaper. It is certainly not an accurate portrayal of the legal system, and I would have expected far better from *Newsweek*.

The article could have included examples – there are many – of people who were victimized by negligent physicians, cheated by corporate fraud or maimed by faulty products and used the court system to receive fair compensation for injuries and deter future malfeasance. But it did not. It also could have included information that would have made the cited cases accurate and complete. But it did not. It could have included evidence of abuses by corporations in litigation filed against other businesses as well as consumers. But it did not. Given the highly politicized nature of the subject, I have to question why was it written by a former corporate attorney who normally writes commentary pieces.

In a broader context, the package – through its tone, statements of opinion, omission of key facts, lack of readily available empirical data, choice of anecdotes, headlines and lack of documentation – utterly fails to present the true nature of the court system's place in our society. This system is an essential part of a functional democracy and the only part of it where citizens – who sit in judgment of the facts of cases, not the law – play a direct role in governmental decision-making. The system reflects the values of our communities and our citizens. It: (1) compensates victims; (2) deters misconduct that may cause injury; (3) punishes wrongdoers who

inflict injury upon others; (4) prevents injury by removing dangerous products and practices from the marketplace and spurs safety innovation; (5) forces public disclosure of information about dangerous practices and defective products; and (6) provides authoritative judicial forums for the ethical growth of the law where the perpetrators of trauma and illness can be established.

These “citizen” values often compete with the bottom-line goals of corporations, giving rise to corporate America’s incessant attacks on the legal system. Americans value their legal rights. If they now are so fearful of being sued, as your article suggests, then I submit that it’s because they are constantly barraged with misleading characterizations of the system.

I have attached Public Citizen’s analysis of this article. I urge you to carefully review this memo. But further, I urge the editors to review the lack of diligence and independence of the reporters and editors who worked on the article to determine whether they met your journalistic standards.

Finally, I request a meeting with the editors and reporters involved in the preparation and presentation of this package of articles – and any other top editors who are concerned about your magazine’s standards – so we can discuss the way this subject was handled.

Thank you for your attention in this matter. I look forward to your reply.

Sincerely,

Joan Claybrook
President

cc. Stuart Taylor Jr., Evan Thomas